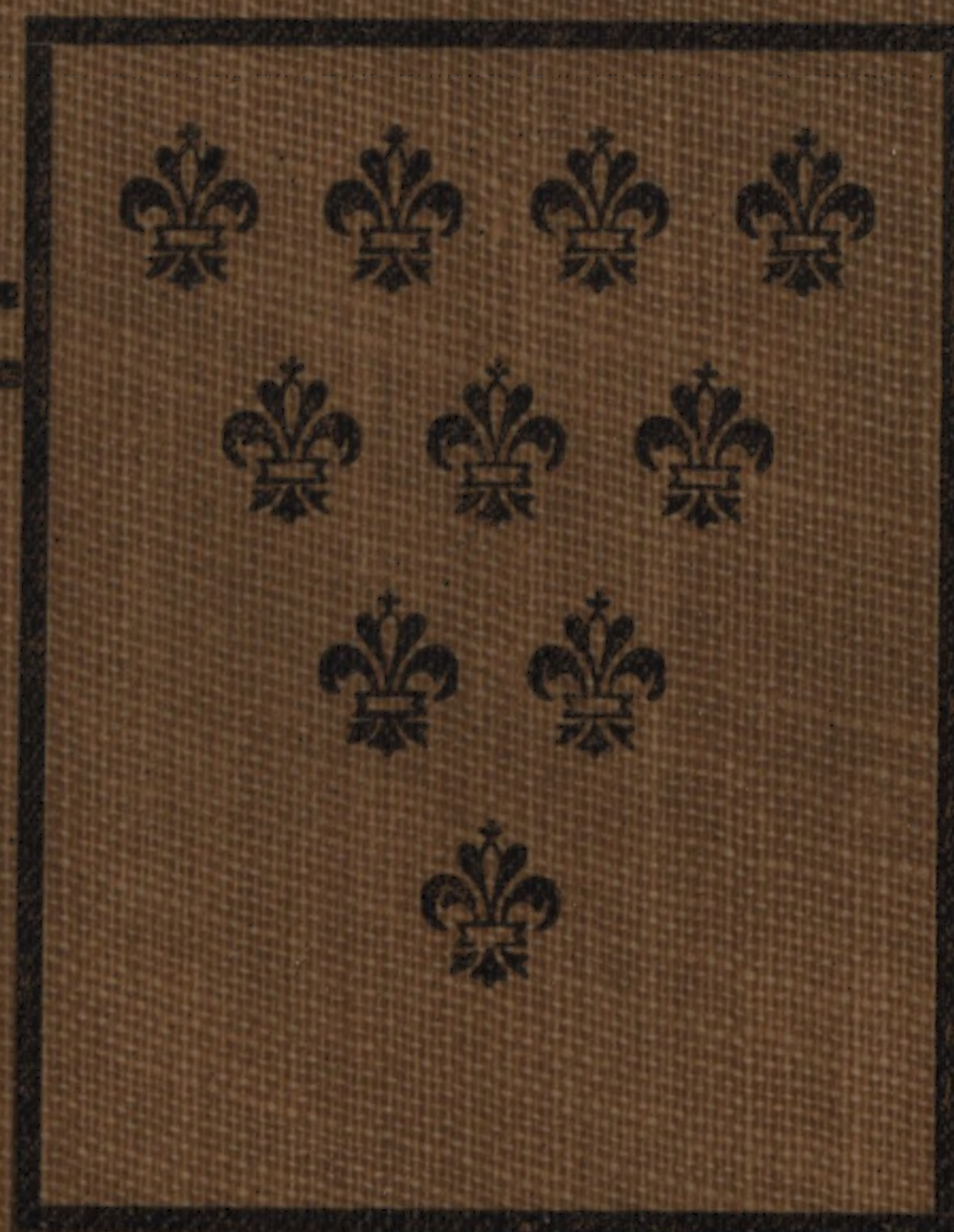


CITIZENSHIP IN BRITISH COLUMBIA

BY
H. F. ANGUS, M.A., B.C.L.

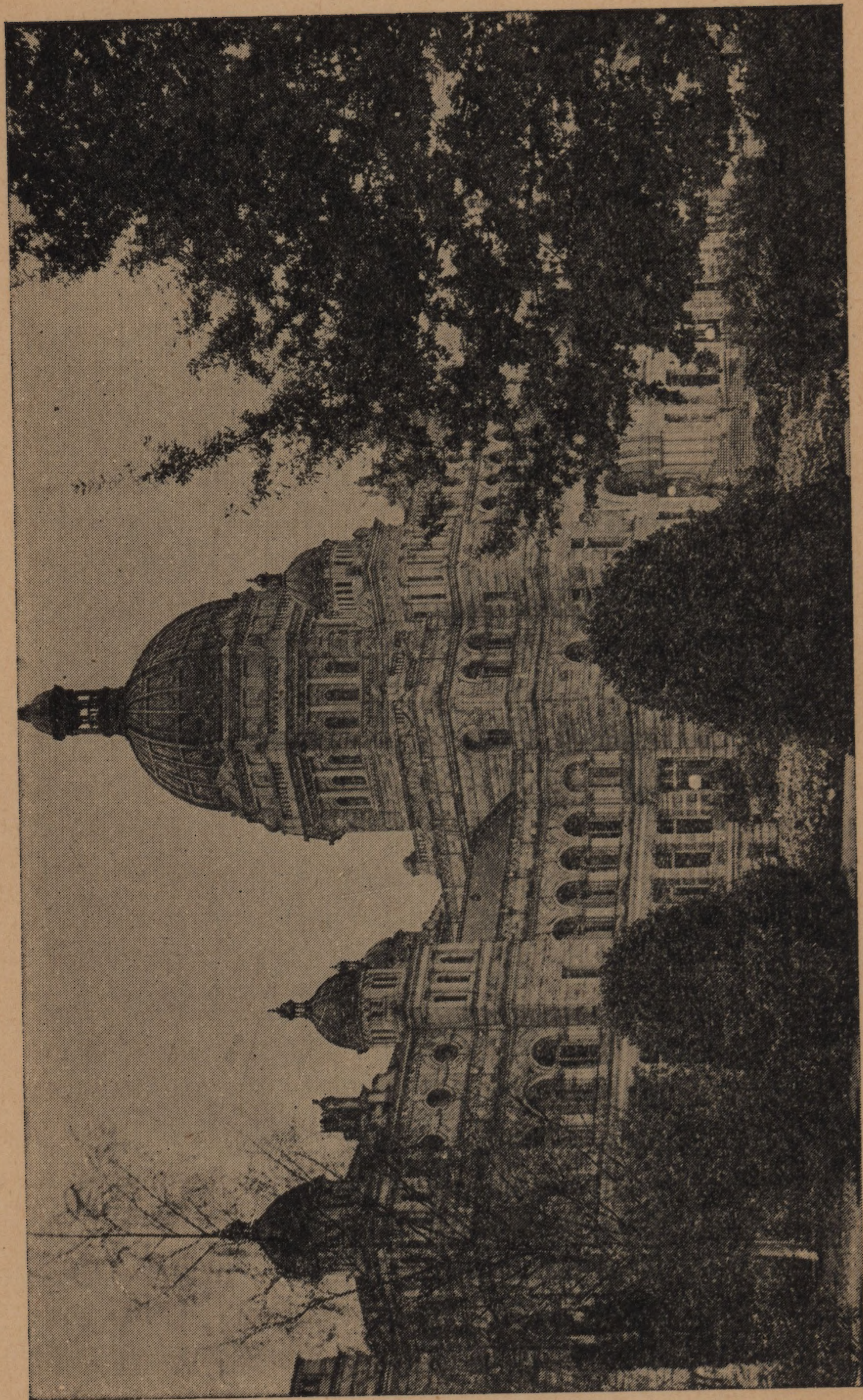


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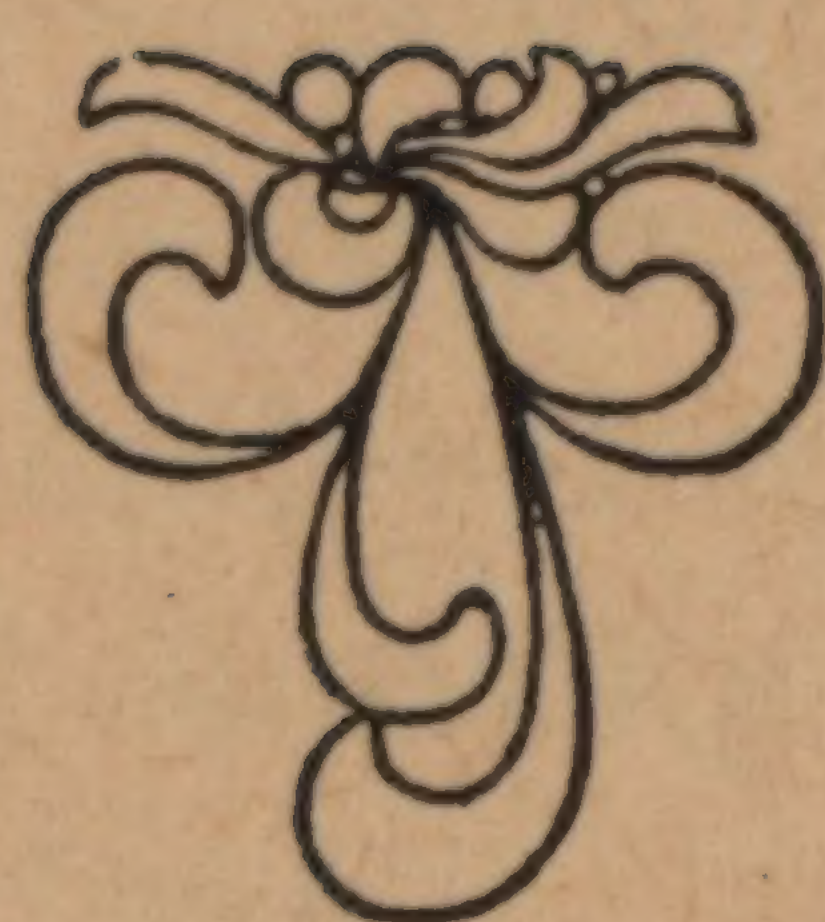
IN

BRITISH COLUMBIA

BY

H. F. ANGUS, M.A., B.C.L.

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595

TABLE OF CONTENTS.

	PAGE.
PREFACE.....	11
CHAPTER I. INTRODUCTORY OBSERVATIONS.....	15
The basis of social relations—The Social Sciences— Economics—Jurisprudence—Politics—Ethics—Science of Legislation—History—Sociology—Interrelation of these Sciences—Questions.	
CHAPTER II. NATION, GOVERNMENT, AND LAW.....	22
Geographical divisions between countries — Factors which make Nations—Government—Laws—Their pur- poses: settlement of conflicts of interest; organization of common undertakings—Anarchy—Constitutional Law — Constitutions — Their objects — Self-government, its advantages and difficulties—Questions.	
CHAPTER III. THE PROVINCE AND ITS GOVERNMENT.....	30
Confederation—The Provinces and the Dominion—The British North America Act—The Terms of Union— Political organization of British Columbia—The King— The Legislative Assembly — Representation — Responsi- bility—Elections—Qualifications of voters—Constituen- cies—The Administration of the laws—The Civil Service —Responsible Ministers—The Executive Council—The Premier—The Lieutenant-Governor—His powers—The working of government—Candidates—Political Parties— Rules of Procedure—Government and Opposition—Parties and the Executive Council—Responsibility of the Execu- tive Council—Political honesty—No safeguard against folly—Diagram—Questions.	
CHAPTER IV. OUR CIVIL LAW—COMMON LAW AND STATUTE LAW.....	43
Statutes — The Revised Statutes — Introduction of English Law—English Law in 1858—The Common Law —Its origins—Precedents—The Common Law in other provinces—In the United States—In other Dominions— Recent changes—The Powers of the Provinces—Land Law—Inheritance—Wills—Personal Relations—Infants —Women — Contracts—Seal—Consideration—Enforce-	

CHAPTER IV.—*Continued.*

PAGE.

ment of Contracts—Damages—Civil Wrongs—Examples—“The King can do no wrong”—Crimes—Uniformity of Legislation—Questions.

CHAPTER V. ORGANIZED ACTIVITIES..... 55

Growing functions of government—Regulation of trades, professions, and businesses—Public services—Education—Council of Public Instruction—Boards of School Trustees—The University of British Columbia—The Normal Schools—Public Health—Provincial Board of Health—Local Boards of Health—Labour legislation—Unfair contracts—The Department of Labour—The Eight Hour Day—Minimum Wage Board—The Workmen's Compensation Act—The Workmen's Compensation Board—Relief of the indigent—The Provincial Home—Widows' pensions—Conservation of natural resources—Agriculture—The Department of Agriculture—The Department of Industries—Questions.

CHAPTER VI. (PART I.) MUNICIPAL INSTITUTIONS AND LOCAL GOVERNMENT..... 66

Reasons for local self-government—The Municipality—The Municipal Act—City, District, and Village Municipalities—Incorporation—Municipal Councils—Qualifications of voters—Voters' list—Court of Revision—Municipal Elections—Functions of Council—By-laws—Powers—Money by-laws—Police—Inquests—Commissioners of Police—Town planning—Municipal Finance—Borrowing—Its objects—Supervision of borrowing—Sinking Funds—Municipal revenue—Provincial contributions—Licences—Taxes on Land and Improvements—The Assessment Roll—Fixing a rate—The Municipal poll tax—Exemptions—Statute Labour—Charter of City of Vancouver—Boards of Control—Provincial supervision—Inspector of Municipalities—Village Municipalities.

CHAPTER VI. (PART II.) TRADING CORPORATIONS..... 80

Business organization—Partnerships—Trading Companies—Common Law Joint Stock Companies—Limited Liability Companies—Shares—Shareholders and Directors—Incorporated Societies—Questions.

TABLE OF CONTENTS.

5

PAGE.

CHAPTER VII. PROVINCIAL FINANCE..... 85

The Expenditure of the Province—Financial provision—Borrowing and taxation—Direct taxes—Direct and indirect taxation—Taxes on gasoline and tickets for amusements—Objects of borrowing—Sinking funds—Principles of taxation—Tests of justice: equality, benefits received, ability to pay, equalization of wealth—Practical aims—Balance of worst tax and least needed expenditure—Summary of revenue and expenditure—Explanation—Questions.

CHAPTER VIII. THE COURTS OF LAW..... 96

Courts and Judges—Law and fact—Juries—The constitution of the courts—Appointment of judges—Their tenure of office—Counties and County Courts—The Supreme Court of British Columbia—The Court of Appeal—The Small Debts Courts—Procedure—Witnesses and their examination—Questions of law—Precedents—Interpretation of Statutes—Constitutionality of Laws—*Ultra vires*—Sovereignty of the Parliament of the United Kingdom—The Parliament of Canada and the Provincial Legislatures—Questions.

CHAPTER IX. THE OTHER PROVINCES—DOMINION AND PROVINCES..... 105

Similarities between the provinces—Differences—Second Chambers in Quebec and Nova Scotia—Departments of the Public Service—Minorities: race, language, religion—Language provisions of the British North America Act and the Manitoba Act—Inconvenience of dual languages—Education and separate schools—Languages used in schools—Immigrant minorities—Natural Resources: Manitoba, Alberta, Saskatchewan, British Columbia—Power of the Dominion to give effect to Imperial Treaties—Control of Provincial legislation: disallowance; reservation—Territories—Formation of New Provinces—Questions.

CHAPTER X. THE FRAMEWORK OF GOVERNMENT..... 115

Preparation of the British North America Act—Its Amendment—Similarity of the Canadian Constitution to that of the United Kingdom—The Parliament of

CHAPTER X.—*Continued.*

PAGE.

Canada—The King's Privy Council for Canada—The part of the King in the government of Canada—The Governor-General of Canada—The Lieutenant-Governor of a province—The Kingship in the Empire—Reservation and disallowance of Canadian legislation—Disuse of these powers—The Senate of Canada—Its composition—Qualifications of Senators—The House of Commons—Distribution of members among the provinces—The Cabinet—The Supreme Court of Canada—The Judicial Committee of the Privy Council—Questions.

CHAPTER XI. THE WORKING OF THE DOMINION GOVERNMENT..... 126

Responsibility of Ministers to the House of Commons—Senate and House of Commons—Political Parties—The Caucus—Cabinet and Governor-General—Advice—Enforcement of responsibility—Constitutional Conventions—Government based on Trust—Cabinet and Party—Leadership—Sectional interests and party organization—Parties and groups—The Leader of the Opposition—The Prime Minister—Conflicts of Senate and Commons—Creation of additional Senators—Uses of the Senate—The Parliament Act in the United Kingdom—Diagram—Questions.

CHAPTER XII. COMMERCIAL LAW..... 138

Powers of Dominion and of Provinces—Money—Its nature—Coins—Notes—Legal Tender—Gold—Gold reserves—Paper money—Banks—Their nature—Government supervision—Bills of Exchange—Promissory Notes—Collateral security—Bank notes—Government control—Redemption Fund—Double Liability of shareholders—Deposits as loans—Negotiable Instruments—Bankruptcy and Insolvency—Patents—Copyrights—Questions.

CHAPTER XIII. CRIMINAL LAW..... 148

The Canadian Criminal Code—A Crime—Individual Liberty and the Protection of Society—Crime and wickedness—Punishment—Its objects: retribution, prevention, reformation—Discretion of judges—Pardons—General principles: that we know the law; no crime without a

TABLE OF CONTENTS.

7

CHAPTER XIII.—*Continued.*

PAGE.

guilty mind—Criminal procedure—Its importance—
Summons, warrant, arrest—Peace Officer—Laying infor-
mation—Bail—Summary proceedings—Speedy trial—
Preliminary hearing—Commitment for trial—Use of the
depositions—The Grand Jury—Bill of Indictment—Petit
Jury—Challenges—Trial—Verdict—Sentence—Appeal—
Pardon—Juvenile offenders—Offences against provincial
laws—Fairness in procedure—Confessions—Bad charac-
ter may not be proved—Hearsay Evidence excluded—
Circumstantial evidence—Questions.

CHAPTER XIV. NATIONAL ENTERPRISES..... 162

Wide powers of the Dominion—The Post Office—Public
Works—Government Ownership—Boards of Management
—Private enterprise—Railways—Dominion and provin-
cial jurisdiction—Rates—Board of Railway Commis-
sioners—Questions.

CHAPTER XV. NATIONAL DEVELOPMENT AND SOCIAL LEGISLATION..... 169

Natural increase in population—Immigration—Prob-
lems involved: Is greater population desirable; have we
a duty towards other countries—Exclusion of undesir-
ables—The unfit—Economic competition—Attracting
immigrants—Powers of Dominion and Provinces—
Natural Resources—Fisheries—Agriculture—Indians—
Social Legislation—Difficulties of Federalism—Depart-
ment of Health—Ministry of Labour—The Labour
Gazette—The Industrial Disputes Act—Dominion Bureau
of Statistics—Composition of our population—Distribu-
tion of Labour—Employment—Distribution of our trade
—Importance of statistics—Questions..

CHAPTER XVI. NATIONALITY, EXTERNAL AFFAIRS, DEFENCE..... 179

The Nation—Nationals—Aliens—International Law—
Canadian Nationality and British Nationality—British
subjects—Natural born British subjects—British subjects
by naturalization—Canadian Nationality Act—Status of
Aliens—Protection of citizens abroad—Laws in other
countries—Foreign relations—Ambassadors and Ministers

CHAPTER XVI.—*Continued.*

—Consuls—Treaties—Negotiation and Ratification—
Canadian Treaties—Disputes between nations—Negotia-
tion, Arbitration, War—Department of External Affairs
—Militia—Department of Militia and Defence—The
Royal Canadian Navy—The Royal Canadian Air Force—
Reliance on Great Britain and on the United States—
Obligations involved—Questions. PAGE.

CHAPTER XVII. CANADIAN FINANCE—THE TARIFF..... 189

General similarity with provincial finance—The war
debt—Its repayment—Indirect taxation—Its attractions
—Provincial subsidies—The Tariff—Ease of collection—
What articles should be taxed: luxuries; goods that
cannot be made in Canada; goods which we want to
produce in Canada—Difficulty of choosing best policy—
Arguments against protection—Arguments in favour of
protection: new industries; scope for all aptitudes;
attraction of immigration; independence of other
countries; wider national life—How good arguments
may be foolishly stated—Is it right to convince by bad
arguments—The present tariff a low tariff—All industries
like protection—The British Preference—Not a matter
of bargaining—Excise duties—Other taxes—War revenue
—Questions.

CHAPTER XVIII. THE BRITISH EMPIRE..... 201

We are both Canadians and British subjects—The
unity of the Empire historical—The United Kingdom—
The legal supremacy of its Parliament and its Executive
—Autonomous communities: Canada; Australia; New
Zealand; South Africa; Newfoundland; The Irish Free
State—The unity of the Empire for certain purposes—
Difficulties for foreign countries—The Indian Empire—
British India and the Native States—The provinces—
The central government—The civil service—The treat-
ment of Indians in the Dominions—Malta and Rhodesia—
Dependencies: Crown Colonies; Protectorates; Mandates
—Relations of advanced and primitive peoples—Consul-
tation between governments—Imperial Conferences—No
compulsory unity of action—Emergencies: the difficulties
involved—The League of Nations—Questions.

TABLE OF CONTENTS.

9

PAGE.

CHAPTER XIX. THE AIMS OF GOVERNMENT..... 213

Unity for common purposes—Aims on which we all agree—Differences of opinion—When decisions are necessary—The duties of citizens—The rights of majorities—Patriotism—Patriotism in war—Patriotism in peace—Our attitude towards other countries—General and sectional interests in Canada—General and sectional interests in the Empire—Limits to the importance of government—Questions.

CHAPTER XX. BRITISH AND AMERICAN INSTITUTIONS.... 221

The American Constitution and the British North America Act—Powers of the states of the United States—Framework of the federal government—Division of powers—President, Senate, and House of Representatives—Position of the President—Method of election—The Cabinet—British institutions require a “powerless” chief of state—The irresponsible Executive—Powers of the Senate and House of Representatives—Treaties—Guaranteed fundamental rights—Amendment of the Constitution—Flexibility: judicial interpretation and implied powers—State governments—Elected judges—Direct legislation—Similarities of Canadian and American institutions—Questions.

BIBLIOGRAPHICAL NOTE..... 233

APPENDIX I. THE BRITISH NORTH AMERICA ACT, 1867.... 235

APPENDIX II. THE TERMS OF UNION..... 264

APPENDIX III. THE BRITISH NORTH AMERICA ACT, 1871..... 269

APPENDIX IV. THE PARLIAMENT OF CANADA ACT, 1875.... 271

APPENDIX V. THE BRITISH NORTH AMERICA ACT, 1886..... 272

APPENDIX VI. THE BRITISH NORTH AMERICA ACT, 1907..... 273

APPENDIX VII. THE BRITISH NORTH AMERICA ACT, 1915..... 277

PREFACE.

The writer's aim is to explain existing Canadian institutions and their working. These institutions are complicated and our triple citizenship in Province, Dominion, and Empire is not easy to understand. The practical aim of the book has made it necessary to deal with these matters from a political, sometimes even from a legal standpoint. No attempt has been made to trace the historical development of our institutions, though the reader is constantly reminded of the need for informing himself on this subject from books on history. Nor has any attempt been made to trace the evolution of organs for performing social functions. Attention has been concentrated on the question of our conscious purpose in maintaining institutions and making laws; and it was felt that this question would be unnecessarily confused if it were attempted to show that in pursuing purposes consciously chosen we were at the same time carrying on a steady social evolution which had once been completely unconscious and which is now only dimly realized. It was felt, too, that any attempt to show man as a blind agent had the fundamental drawback of undermining any sense of responsibility for the order in which we live; and that it was better to run the risk of exaggerating our power of controlling our destinies.

The practical aim of the book has determined its *tone*. When institutions are explained and laws discussed an attempt has been made to show to what purpose they were directed, what difficulties had to be dealt with, and what measure of success has been achieved. Where there is a conflict of opinion an attempt has been made to state the arguments of each party with fairness. The result, it is hoped, has been to give a critical and balanced view of the world in which we live, avoiding both promiscuous optimism

and any approach to cynical pessimism. Since the aim of the book is practical and is limited to an explanation of existing institutions, nothing whatever has been said of projects involving fundamental changes, such as: Annexation to the United States, Canadian Independence, Imperial Federation, State Socialism, Communism, Anarchism.

Questions have been added to each chapter. They are meant as a suggestion to teachers and not as an attempt to achieve the impossible and make the teacher unnecessary. The first three sets of questions—best answer tests, true-false tests, and completion tests—are framed to test accurate knowledge; the fourth set is meant to give scope for thought and an incentive for further study. The study of Civics can never be kept separate for long from history and these questions have been used as a means of referring the readers to their histories. Many of the matters with which they deal raise questions on which the most varied opinions can be held by thoughtful people. Some of these general questions may be too difficult for use in all classes. The teacher must use his discretion. It is hoped that teachers will not hesitate to frame questions of their own either in place of, or in addition to, those suggested.

The writer has attempted to avoid as scrupulously as he can expressing or suggesting an opinion on controversial topics. It is realized that many people would like particular views taught; in other words, that they would like opinions taught as accepted facts. The writer thinks that it is wrong to do so and that the absence of a fearless and disinterested striving towards *truth* is the chief obstacle in the way of establishing a high sense of duty in matters of truthfulness and honour among our high school pupils. But, whether wrong or not, to teach opinions as facts is futile, because two, or indeed any number, can play at that game, to the confusion of the pupil!

The writer has attempted not to repeat details which the pupils have already learnt in the lower schools if such a book as McCaig's Studies in Citizenship has been used. Some repetition of general principles cannot be avoided. Details of election procedure and of the distribution of work between the various departments of the public service are examples of omissions that have been made.

H. F. A.



CITIZENSHIP IN BRITISH COLUMBIA.

CHAPTER I.

INTRODUCTORY OBSERVATIONS.

Under modern conditions the relations of men to one another in society are extremely complex. No one of us could live his life as he now lives it without the constant help and co-operation of others. To be able to rely upon our neighbours is, therefore, an essential condition of our existence. In order to be able to live side by side with other men without injuring them, or being injured by them, in order to furnish to each other the mutual aid without which our existence would not be possible, we must have confidence that, if we continue to conduct ourselves in a reasonable and proper manner, others will do so too. And others must have a similar confidence in us. This mutual confidence is a fact. It exists in all progressive countries in some degree; and in no country is it more real or better justified than in Canada. The purpose of this book is to explain how we regulate our intercourse with one another so as to maintain and strengthen this confidence. It is not part of its purpose to inquire whether the same or greater confidence could be maintained in other ways and under other circumstances. In accomplishing our purpose we shall have to touch on many of the social sciences in turn. By the social sciences we mean those bodies of knowledge which have to do with the relations of men to each other in society. In more advanced work we should deal with these sciences one at a time, for the sake of clearness and of completeness. At

present we are concerned with a general survey of social relationships, and none of the social sciences can be excluded from our work.

One very important branch of our social activity has to do with providing ourselves with food, clothing, shelter, fuel, the means of transportation, the facilities for education and for amusement, or, in very general terms, with the satisfaction of those needs which we cannot satisfy without some organized effort. Our knowledge of this branch of our activity is called economics, from the Greek word for household management.

Another important branch of our social activity has to do with the enforcement of rules of conduct designed to prevent conflicts. An individual who was free to do whatever he pleased, without restraint of any kind, might behave himself admirably, but he might, on the other hand, be a very troublesome person. It is necessary to make some sort of provision that when one man harms another he must make good the damage done. It may even be necessary to use force of some sort to prevent one man from harming another, and it may be convenient to make provision that, if one man harms another wilfully, a penalty will be imposed. The rules which are applied for these purposes are called laws and the science which deals with them is called Jurisprudence, from the Latin words for "a knowledge of law."

The rules of conduct, of which mention has been made, are rules which can be changed from time to time. In order to come to an agreement as to changes and additions people must have some sort of organization. It must be clear who is to say what the rules are, who is to be able to alter them, and who is to see that they are properly enforced. At different times, and in different countries, people have been differently organized for this purpose. The branch of knowledge which concerns this organization and its opera-

tion is called Politics, from the Greek word for a city. It is with Canadian political organization that we shall be chiefly concerned in this book.

A third of the social sciences has to do with the principles which *ought* to govern our relations to one another in society. It deals with our duties and with the grounds on which those duties are based. Sometimes the principles are very simple and are acceptable to all. Every one would admit, for instance, that it is wrong to steal, or that it is good to help those less fortunate than ourselves. Sometimes, however, it may be very difficult for us to decide what is right and what is wrong. Some would say that it is right, others that it is wrong, for a man to steal food for children who are starving. Some would think it wrong to kill a man in self-defence, while others would think it wrong not to do so. The body of knowledge which deals with these matters is called Ethics, from the Greek word for character.

When this question of what is right and what is wrong is asked, not of the conduct of an individual, but of the policy of a country in making its laws, we may speak of a Science of Legislation. When we come to examine some of the laws which exist in Canada, we shall have something to say of the purposes which it is sought to achieve by these laws, and with the principles on which they are based. We shall, however, not be much concerned with the question of whether these are, or are not, the best principles that could be followed. Such an inquiry might be very interesting, but it would be very controversial. We could hardly hope to agree with one another, for in ethical matters differences of opinion are very frequent, and people who hold diametrically opposite views may each seriously think that he is right and the other wrong. We must, therefore, content ourselves with noticing and respecting honest differences of opinion.

Much of our knowledge of social relationships comes from our records of what men have done in the past. This part of our knowledge we call History. It is often to history that we must look for the facts on which we can base our opinions of what is likely to happen in the present or the future. But before we can make use of the facts in this way we must be able to understand them in their relationship to one another. We must be able to say, for instance, that one fact was the result of other facts, or that a number of facts make up a process leading from one condition to another. This task of interpreting the facts is part of the work of the historian. While the record of what happened in the past is a matter of fact about which definite knowledge is sometimes possible, the interpretation of the facts is a matter of opinion. So, in dealing with history, we must be constantly on our guard against attributing to the opinions of the historian more importance than they deserve. History is the recorded experience of society and corresponds to our individual memories or experience. We respect the judgment of an experienced man only if we think that he has the power of learning wisdom from his experience. In the same way, our trust in the judgment of those who ask us to accept some opinion as to the present or the future because of what has happened in the past, must depend both on the accuracy of their knowledge and on their power of learning wisdom from that knowledge.

The most comprehensive of the social sciences is Sociology. It has to do with a general survey of the other social sciences and of their relation to one another.

It must be kept in mind that when we are considering a practical question we have to apply, in turn, first one, and then another, of these social sciences. In advanced studies they may be considered separately, but the practical man must use them all together. He may often use them without

realizing that he is doing so. It may even come as a shock to him to find that one of his opinions is a matter of Ethics, another of Politics, another of Economics, just as it came as a surprise to M. Jourdain, in Molière's comedy, to find that he was talking prose.

Let us take an illustration. A new teacher takes charge of a school. He is told that the pupils have been in the habit of coming late to school. This is History. It is suggested that they came late because no penalty was imposed. This opinion is an interpretation of history and may be sound or erroneous. The teacher forms the opinion that it is bad that pupils should come late to school. This is an ethical opinion. He has the right to make rules and impose penalties. This is a matter of Politics. He makes a rule that any one who comes late will be detained for an hour. This is legislation. A school inspector visits the school and compares this rule with a rule used by another teacher elsewhere. The comparison is a step towards a science of legislation. But we have begun by assuming the existence of the teacher and the school. How did they come into being? Why does any one attend the school? These are more difficult, perhaps more philosophical questions, and belong to the science of Sociology.

BEST ANSWER TESTS.

*Several ways are suggested of completing each of the following statements. Strike out all the alternatives except the one which you consider the best. Note that the statement in its best form may not be absolutely true, while in its other forms it may not be complete nonsense.**

1. Economics is the branch of knowledge which has to do with (a) the administration of law; (b) the organized efforts by which we satisfy those of our wants which we cannot satisfy otherwise; (c) the best way of saving money; (d) the teaching of children.

* This explanation applies to the Best Answer Tests which follow each of the later chapters.

2. We call that branch of knowledge which has to do with the determination of our duties (a) Jurisprudence; (b) Ethics; (c) the Science of Legislation; (d) Politics.

3. Most practical social questions involve (a) several of the social sciences; (b) no scientific knowledge whatever; (c) Ethics alone; (d) Economics alone.

TRUE FALSE TESTS.

*Each of the following statements is either substantially true or distinctly false. If you consider the statement true underline the word "true." If you consider it false underline the word "false."**

1. Opinions vary on most ethical questions.....True. False.
2. History deals with what is likely to happen in the futureTrue. False.
3. The word *Ethics* is derived from the Greek word meaning *character*True. False.
4. We respect experienced men because of the wisdom which we think that they must have acquiredTrue. False.
5. Sociology is the science which has to do with social etiquetteTrue. False.
6. Laws once made can never be changed.....True. False.

COMPLETION TESTS.

The blanks in the following paragraph are to be filled in with appropriate words which have been used in the last chapter. Fill in each blank and then read the chapter again checking your use of words.†

When we read of the events which led up to the entry of British Columbia into the Canadian Confederation we are studying.....
 When we go on to consider the nature of that confederation we are studying..... If we learn something about the laws which exist in Canada our knowledge can be called..... When we consider our duties to Canada and our duties to our fellow citizens we are dealing with the science of....., whose name comes from a..... word meaning.....

* This explanation applies to the True False Tests which follow each of the later chapters.

† This explanation applies to the Completion Tests which follow each of the later chapters.

GENERAL QUESTIONS.

*The answers to these questions will not be found in the text of this book. The object of these questions is to combine or correlate your reading about citizenship with the other things which you are learning. The answers will often involve the expression of an opinion and of the grounds on which it is based rather than matters of fact.**

1. Mention some instances in which you are benefited by the existence of laws and also some instances in which you are restrained by the laws.

2. What Canadian statesman has done, in your opinion, most good to Canada?

3. Can you think of a great statesman who has been a good man? Can you think of a great statesman who has not been a good man?

* This explanation applies to the General Questions which follow each of the later chapters.

CHAPTER II.

NATION, GOVERNMENT, AND LAW.

If you turn to your geographies you will see that the world is divided into many different countries. In some cases the boundaries between them consist of prominent natural features. Australia, for instance, is bounded by the ocean. In other cases the boundaries consist either of minor natural features, such as rivers or chains of hills, or are purely conventional, as is the greater part of the boundary between the United States and Canada. Evidently it is not in every case the boundaries which have made the country. To discover how each country came to be a separate country with a definite existence of its own you will have to turn to your histories. There you can find how each people has acquired its present boundaries and its present organization. Usually you will find that the causes which have united a people and at the same time divided it from other peoples are not purely geographical. You may find that a common language has been a bond of union, or that religious ties have been of importance, or that common dangers have brought peoples together, or that commercial convenience has done so. You may even find that more or less fortuitous circumstances, such as the influence of some man of commanding personality, have contributed to the formation of the different countries. When the union has once been accomplished, when there is some strong similarity of thought and life throughout a country and some organization of the people in it, we call that country a nation. Some nations are large, others small. In some national unity is based on the united action of many of the causes which we have indicated and is of a close and intimate character. In others the union may be less definite either because of important

differences within the country or because of great similarity between its people and those of other countries. The organization of a nation will naturally vary in accordance with these and other circumstances. This organization in its various forms we call government.

The organization of a people is maintained by rules called laws. We are so accustomed to a life in which order prevails that it is very difficult for us to imagine anything else. Even our games are governed by rules and would lose their interest if the rules were disregarded. One of the chief reasons why we obey the rules of a game which we play is that we could not expect others to do so if we did not, while, unless the others obey the rules, the game will be meaningless. In the more serious affairs of life rules are equally important and we obey them for much the same reason. If we had to be on our guard against every man whom we met lest he should attempt to take our life or our property we should have little time for other occupations and our life would become intolerable. It is essential for us to have some protection against outrageous conduct by others, and we find this protection in rules, or laws, which they and we alike obey. We shall see later that means have been devised for enforcing these laws when they are not obeyed voluntarily, but voluntary obedience is the rule and enforcement the exception. To understand the nature of these rules we must examine what matters they deal with, by whom they are made, and by whom they can be changed.

In a general way we can say that laws are necessary to deal with all matters in which a conflict of interest can arise between two or more people. The alternative would be for such a conflict to be settled by violence. A few examples will make this generalization clear. There is a conflict of interests if two or more people claim the same coat, the same field, the same automobile. There are, therefore, rules, or

laws, which determine who is entitled to enjoy one thing or another. Things which we are entitled to enjoy exclusively we call our property. There is also a conflict of interests if one person tries to kill another or to do him a violent injury, and there are laws forbidding conduct of this sort. There is a conflict of interests if one man does not keep an agreement, or contract, which he has made with another, and there are laws compelling him to do so or to compensate the other, except in certain special cases. A conflict of interest may arise from an agreement in a different way. The people who have made it may put different interpretations on it. There are rules for deciding what is the proper meaning to be given to an agreement that has been misunderstood.

The peaceable and orderly settlement of conflicts of interests is not the only function of law. It is sometimes necessary, and often convenient, for people to undertake, in common, enterprises that are for the common advantage. If there is danger of an epidemic disease certain measures may be advisable to prevent its occurrence. When these measures are taken every one in the district benefits by them. Sometimes the precautions are only effective if taken by every one, as in the case of an attempt to destroy all the mosquitoes in a district to prevent them from spreading a disease such as malaria fever. Under such circumstances as these, people who are not willing to co-operate are often compelled to do so, being forced either to contribute money towards the cost of the measures or even to take precautions which they may consider needless, troublesome, or indeed injurious. In the same way the provision of schools for all children is possible only if all co-operate; and the great majority of the people believe the provision of some education for all so important that they will compel unwilling parents to send their children to school. In the same way,

too, national defence may be considered so important and the benefits so widespread, that even unwilling people are compelled to contribute their share in money or in personal service, or in both. The admission of new settlers to the country is obviously a matter of great importance to those already there and they may find it desirable to offer inducements to those settlers whom they wish to attract and to make rules to exclude those whom they do not want. Measures of this sort involve much discussion as opinions naturally vary as to who are desirable settlers and who are not.

This list of topics on which some rules are necessary to prevent conflicts of interests from leading to violence or to provide some common action is not exhaustive. It is meant to show two things: (1) that the matters on which joint action is necessary are very numerous and varied; and (2) that rules or laws cannot be made once and for all, but must be changed from time to time as conditions change.

It is one thing to show that rules are necessary and that common action is desirable. It does not follow that there is any one able to impose the rules or to dictate the joint action. If there were no one in such a position it would be a great misfortune and a great danger to everybody. Anarchy, or the absence of law, would prevail. But it might be equally disastrous if the rules were made by bad men for their own advantage or by foolish men for the advantage of no one. You may find in your histories examples of both these contingencies. It is important to note that if anarchy is to be avoided and the laws made by good and competent people there must be some rules which determine who is to make the laws and who is to enforce them. These fundamental rules which deal with the distribution of political power and the conditions of its exercise are called constitutional law, or the constitution of the nation in which they prevail.

If we answer the question of who make and change the laws of a country by saying that the laws are made by the persons or bodies designated for that purpose by the constitution, or constitutional law, of that country we raise the further question of who makes the constitution. This is a very important matter and one of which we must not lose sight; but we may leave it on one side for the present because it is very complicated. The constitution, as we shall see, may never have been drawn up formally and accepted by the people of a country, but may consist of principles which are tacitly recognized and acted on. Indeed, our own constitution consists partly of principles recognized in this way and partly of express rules made by various bodies. It can be changed and provides the rules which determine who is to have power to change it.

One of the chief purposes of a constitution is to provide that the laws shall be made by persons who are likely to make them wisely and well, and to change them if they are found to be no longer suited to the conditions of the country. Several courses are possible. One man might be designated as law-maker, or the men who are believed to be the wisest and most honest in the country might be chosen to make and alter its laws. There would be difficulty in either case in making the choice, as opinions would differ as to who were the wisest and most honest men. Even if such men were chosen, the laws which they made would not please every one and those who were displeased would soon cease to think the men wise and honest. A third course is to entrust the task of making the laws to the people or to a large body of them. The advantage of getting people to make and alter their own laws lies first in the fact that if they are dissatisfied with the result they have only themselves to blame and the remedy is in their own hands. A second advantage is that people who make their own rules are in a position to

learn from experience and to adapt their laws to suit their needs. Thirdly, there is a certain servility involved in being forced to obey rules made by others and one may well prefer to make one's own rules even if they are not so good. The liberty which consists in obeying no rules at all is, as we have seen, impossible because of the conflicts of interests which arise between different people, and because many important things require united effort for their accomplishment. But the liberty which consists in obeying only those rules to which we have collectively assented is something which we can try to achieve.

Many difficulties, however, lie in the way of people making their own laws. First of all, many people have not the necessary knowledge and skill. It is one thing to say whether a law is good or bad, pleasant or unpleasant, but it is another thing to make it—just as it is one thing to say whether a dinner is well cooked, and another to cook it yourself. Secondly, it is not possible for very large numbers of people to discuss with one another what laws they want. Thirdly, there will always be some people who are quite unwilling to agree to the laws which the others would like. We shall see, therefore, that while we are able to say in a very general way that we make our own laws, we are obliged to take account of these three difficulties and to endeavour to devise ways of meeting them. When we come to consider the constitutional law of the country it will be largely with these difficulties that we shall be concerned.

BEST ANSWER TESTS.

(See the explanation on page 19 at the end of Chapter I.)

1. The boundaries of modern nations depend on (a) natural features; (b) economic conditions; (c) political arrangements; (d) racial characteristics.

2. Conflicts of interests between citizens are settled by (a) laws; (b) lot; (c) force; (d) compromises.

3. Common action is necessary in many matters because (a) we all want the same things; (b) individual action is inadequate; (c) individual action is always bad; (d) money is needed.

4. Who can make the laws in a country is determined by (a) its constitutional law; (b) chance; (c) force; (d) age and wisdom.

TRUE FALSE TESTS.

(See the explanation on page 20 at the end of Chapter I.)

1. Laws are made by the wisest men in the community....True. False.
2. Complete liberty to do what one pleases is not possible
for every one at the same time.....True. False.
3. As a community we make our own laws.....True. False.
4. No one is bound to obey a law to which he has not
consentedTrue. False.
5. The organization of common action is the only function
of lawTrue. False.
6. Government is the organization of a nation for making
and executing lawsTrue. False.
7. Anarchy is the absence of government and law.....True. False.
8. Each nation speaks a language of its own.....True. False.

COMPLETION TESTS.

(See the explanation on page 20 at the end of Chapter I.)

Rules which we are bound to obey are called..... They are made by the person or body designated by the.....of each country. Such a body is called a..... A country in which no such rules are obeyed is said to be in a state of..... Something which we are allowed to deal with as we please is called our.....

GENERAL QUESTIONS.

(See the explanation on page 21 at the end of Chapter I.)

1. Trace the causes which have led to the development of any one nation.
2. Find in your histories an example of bad legislation, and find out how the men who framed that legislation came to hold power.
3. Consider any law which has been recently passed in Canada, or any proposed law, and discuss who would gain and who would lose by it.

4. Find examples of any conflicts of interests among yourselves and see whether you have any rules or customs for settling them. If so, see if you can say how these rules or customs began.

5. Find examples of any things which you undertake in common. Show what sort of organization you have for the purpose. If possible show how you came to have this organization.

CHAPTER III.

THE PROVINCE AND ITS GOVERNMENT.

You learn from your histories that the Dominion of Canada was formed in 1867 by the union of three British provinces in North America, one of which on entering the confederation was divided into two provinces. Each province had laws of its own, including its own constitutional law, and these laws were, with minor changes, kept in force after the Confederation. The provinces united because it was felt that there were many things which they could do in common for their mutual advantage which they could not do separately, and that there were many things which they wished done in a uniform way throughout the whole country. However, there were many things which they wanted to continue to control separately so as to be able to make them suit local conditions. These matters were far more numerous than they would otherwise have been because one of the provinces, Quebec, was mainly French in population. The French settlers, at the time of the British conquest a century before, had been guaranteed the right to use their own language, their own customs, and their own religion. Their descendants, when uniting with the other provinces to form the Dominion of Canada, were naturally unwilling to endanger any of these rights by giving the power of making laws about them to any authority which they did not control. So, when a division of powers was made between the new Dominion of Canada and its provinces, the latter were left with very wide authority, and to-day it is the province which controls the making of laws on many of the subjects which are of most concern to its citizens in their daily life.

The Colony of British Columbia entered the Confederation and became a province of the Dominion of Canada in 1871.

It naturally accepted, in the main, the same conditions as the other provinces, gave up the powers which they had given up, and retained those which they had retained. Like them, it kept its former organization with very little change and retained the power to alter its own constitutional law. But there were some points on which a special bargain was necessary. The special terms agreed on are contained in what are known as the Terms of Union. In the British North America Act provision had been made that these terms were to be brought into effect by an Order in Council of the Imperial Government. This Order in Council, made on the sixteenth of May, 1871, has the same force as if it, like the British North America Act, were a law passed by the Imperial Parliament.

While we must bear in mind that the powers of the province are limited to those specified in the British North America Act and the Terms of Union, we can consider these powers, the political organization of the province, and the laws which it has made, before we deal with the relation of the province to the Dominion of Canada, or with those subjects concerning which the Parliament of Canada alone can legislate.

In the province of British Columbia, as in other parts of the British Empire, the laws are enacted in the name of the King. The King's place in the constitutional organization of Canada will be discussed later. His share in law-making is merely a formality, and the laws of the province are really made by a body called the Legislative Assembly, which consists of forty-eight members, each chosen to represent the citizens of some part of the province. In choosing their representative these citizens have virtually agreed to be bound by anything that he may do in their behalf in the Legislative Assembly. They are responsible for what he does there just as a man is answerable, within proper limits,

for the acts of his servant or his agent. This device of "representation" is the way in which we surmount the difficulty of large numbers of people meeting together for discussion. People who cannot consult with one another in person can do so through their representatives. This device also helps us to avoid the difficulty occasioned by the fact that many people have not the necessary knowledge and skill for law-making, as representatives may be chosen who are thoroughly fitted for this task. A new Assembly is chosen every five years, and sometimes, as we shall see, at shorter intervals. When the choice, or election, takes place the citizens may choose their former representative again, or some one else in his place. In this way they control their representative, and we can, therefore, say that he is responsible, or answerable, to them for his acts. We are not a vindictive people and bad judgment on the part of a member of the Legislative Assembly is followed by no heavier penalty than a possible refusal of the citizens to re-elect him. This system of election requires, in order to ensure its smooth operation, a number of rules. It is necessary to decide what citizens are to be entitled to participate in the choice. In principle every British subject, who is over twenty-one years old, and who has resided in the province for six months, may do so. Certain classes are excluded for various reasons: Chinamen, Japanese, Hindus, and Indians on racial grounds; persons who have committed serious offences, inmates of the Provincial Home, and objectors to military service, presumably on the ground that they are not performing the normal duties of citizenship. Besides deciding who may participate in choosing representatives, it is necessary to specify the group which must unite in choosing the same representative. For this purpose the province has been divided into a number of electoral districts, or constituencies, each including all the citizens within a certain area. From

each district one or more members are chosen. Another necessary rule makes provision for what is to happen if the choice is not unanimous; i.e., if more candidates appear than there are members allotted to the district. In this case each citizen entitled to vote has as many votes as there are members to be elected and the candidates who get the largest number of votes are declared elected. There are also rules, which will be mentioned later, to ensure that the election is honestly conducted.

The making, unmaking, and alteration of the laws are not the only functions of the Legislative Assembly. It indirectly controls their administration. The actual administration of the laws is entrusted to men who have had some special training for this work and some experience in it. These men are not, like the members of the Assembly, elected from time to time, but are employed permanently. We call them Civil Servants, a name which arose in England to distinguish the non-warlike from the military servants of the government. The employment of permanent officials for the routine work of government is another device for overcoming the difficulty which a people has in governing itself, because of the ordinary citizen's lack of skill and experience. It is a device, however, which is not free from danger. Permanent officials sometimes forget that, to satisfy their employers, they must administer the laws not merely efficiently, but in such a way as not to offend the public. To protect ourselves against this danger, and to ensure that the government of the country will be conducted in accordance with the wishes of the people, we have adopted the English practice of placing at the head of each department of the civil service an official, called a minister, who is not permanent and may be dismissed at any time if he is distrusted by the representatives of the people in the Legislative Assembly. He is said to be a responsible minister because

he is answerable to the Legislature for his actions in office; and government carried on by responsible ministers is called responsible government. The ministers, who must not exceed twelve in number, and of whom not more than eight may receive salaries, form what is called the Executive Council. The chief of the ministers is known as the Premier. Of the Executive Council, which is more than a mere meeting of the heads of the departments of the Government, we shall have something to say later.

At the head of the Government of the Province is the Lieutenant-Governor, an official appointed by the Dominion Government for a term of five years. He is the King's representative and the nature of his office cannot be altered by the Legislature of the Province. He appoints the ministers, summons and dissolves the Legislative Assembly, and performs other important acts. The field for the free exercise of his discretion is, however, not very great. He is obliged to appoint ministers who are acceptable to the Legislative Assembly, for, as will be explained, it can force the resignation or dismissal of any ministers whom it dislikes. In performing his other acts he must follow the advice of his ministers, who would resign if he did not do so. Many of his powers are to be exercised "by and with the advice of the Executive Council," which, as we have seen, consists of men who are answerable to the Legislative Assembly. In spite of not enjoying wide discretionary power the Lieutenant-Governor occupies a position of importance and may play a conspicuous part in the life of the Province.

Now that we have described the framework of our government we must see how we use it. When an election takes place men who would like to represent their fellow citizens in the Legislative Assembly, and who have reason to think that they have a good chance of being chosen, are nominated as candidates. The citizens are concerned with finding some

one who is honest and competent, and above all else with finding some one who will undertake to do certain things if elected, to endeavour to have enacted the laws which they want, or to influence the administration in the way that the electors wish. The candidate, therefore, attempts to offer the electors before whom he is presenting himself a good expectation that, if he is elected, the results which they desire will be produced. It will be of great assistance to him if he can point to other candidates in other districts and say that they, if elected, will unite with him in promoting these ends. It is natural for him to associate himself with candidates who have similar objects in view and are seeking election elsewhere in the province. This association constitutes what is called a political party. Its organization may be very close or very loose—anything that those who compose it care to make it. It will normally include not only those who are themselves candidates, but all citizens who are strongly interested in their success. Indeed, instead of the candidates forming the party we find the party choosing the candidates and presenting to the electorate the persons whom it has fixed on as suitable members. A political party has, therefore, two aspects: it is an association of citizens who wish to accomplish certain ends, or to have certain laws enacted; it is also an association of citizens for the purpose of capturing political power in the province, by controlling, through the election of its nominees, a majority of the members of the Legislative Assembly, and thus the whole of the Executive Council.

When the Assembly meets it consists of a number of more or less organized parties and possibly some members who do not belong to any party. In order that the Assembly may transact its business rules of procedure have been made. Their general aim is to ensure that there shall be ample opportunity for the discussion of important decisions, but

that there shall be no unnecessary delays. The decisions of the Assembly need not be unanimous. They are valid if more of those present support them than oppose them. To require unanimous decisions would give to every individual member the power to prevent any decision from ever being reached. To require a specially large majority, such as two-thirds or three-quarters, would make it possible that no decision could be reached. So we have adopted the rule that, for all purposes, a bare majority is sufficient. It is, therefore, the aim of a political party to command a majority in the Legislative Assembly. Until it has done so it has no real power, and if no one party has a clear majority it is very likely that two or more groups will unite to form one. This union, which is accomplished by each giving up some of its aims to secure united support for others of them, may practically amount to the creation of a new party. Eventually we are likely to find only two permanent parties, one of which will command a majority and will be, as is said, in power, while the other, which is in the minority, forms what we call the opposition. The opposition will take every opportunity of criticizing the acts of the party in power. It does so because it hopes that some day the people will become dissatisfied with this party and refuse to elect its supporters, and that then the opposition will obtain a majority of the members and itself form a government. We call an opposition of this sort a loyal opposition. It aims at forming a government and continuing the work of its predecessor. We think of it as a good thing that a government should be exposed to responsible criticism of this character, and the leader of the opposition, who would become Premier if his party secured a majority, receives official recognition and a salary.

We can now understand the effect which party organization has on the nature of the Executive Council, and how that council is more than a meeting of heads of departments.

It consists of men who are all members of the same party and, indeed, who are the most prominent members of that party. They meet to arrange for the measures which the party will endeavour to enact as laws. If one of these measures is defeated—i.e., is not supported by a majority—in the Legislative Assembly, or if the policy of the Executive Council is disapproved by the Legislative Assembly, the Executive Council is said no longer to possess the confidence of the Assembly. In such a case it will resign, and the Lieutenant-Governor will appoint as ministers the most prominent members of the opposition. The only alternative is for the Executive Council to advise the Lieutenant-Governor to dissolve the Legislative Assembly and hold a new election. If this election results in the return to the Assembly of members who will support the ministers they may remain in office. Otherwise they will have to resign. What would happen if they did not resign? Perhaps the Lieutenant-Governor might dismiss them on his own authority, confident that the Assembly would approve his action and give its support to the ministers appointed in place of those dismissed. If he did not follow this course the Assembly would probably refuse to pass any laws at all, and as many of the taxes are authorized by laws which are only valid for a year, the government would find itself without money with which to meet its expenses. In this way an Executive Council which defied the Legislative Assembly would find itself unable to govern the country, and in this way the responsibility of the Council to the Assembly is enforceable. In practice, of course, the rules of our constitutional usage are observed, just as the rules of a game are observed, as a matter of etiquette or of honour; but behind them there lies a means by which, if necessary, they might be enforced.

There are two points at which the system of government which has been described requires a vigilant supervision: the elections must be kept free from corrupt practices; and the members of the Legislative Assembly must act honourably. To ensure proper election several safeguards are provided. Voting is by ballot and secret. This provision prevents the voter from being intimidated, or penalized for voting for a particular candidate. Any payment or advantage given in return for a vote is forbidden. The expenditure of candidates at elections is strictly controlled. To ensure that members of the Legislature will exercise their important functions disinterestedly, office-holders, and men who have contracts with the government, are excluded from possible membership. There is an exception in the case of the responsible ministers who may be elected to membership of the Assembly; but even they must resign their membership and offer themselves for re-election when they first accept office as ministers. The bribery of a member of the Assembly would, of course, be severely punished. From other influences: indirect gains, the influence of friends, requests from influential bodies, it is impossible to secure complete freedom except through the existence of the most exacting standards of personal honour in the performance of public duties.

We must judge of the merits of this system of government by its results, and later we shall say something about the results at which a government should aim. The system does not guarantee good results. It has no pretension to be fool-proof. Indeed, it offers us almost no protection against our own extravagance and folly or those of our fellow citizens. It gives us collectively an opportunity to be well and wisely governed, but it is only by being alert and enterprising, honest and public spirited, that we can make much of the opportunity which is offered.

BEST ANSWER TESTS.

(See the explanation on page 19 at the end of Chapter I.)

1. Laws are enacted in the name of (a) the people of British Columbia; (b) the Lieutenant-Governor; (c) the King; (d) the Legislative Assembly.

2. Members of the Legislative Assembly are chosen by (a) the Lieutenant-Governor; (b) resident British subjects over twenty-one years of age; (c) all residents of the Province over twenty-one; (d) all male residents of the Province over twenty-one.

3. The Executive Council is composed of (a) Ministers of the Crown; (b) Ministers of religion; (c) the Members of the Legislative Assembly; (d) the Civil Servants.

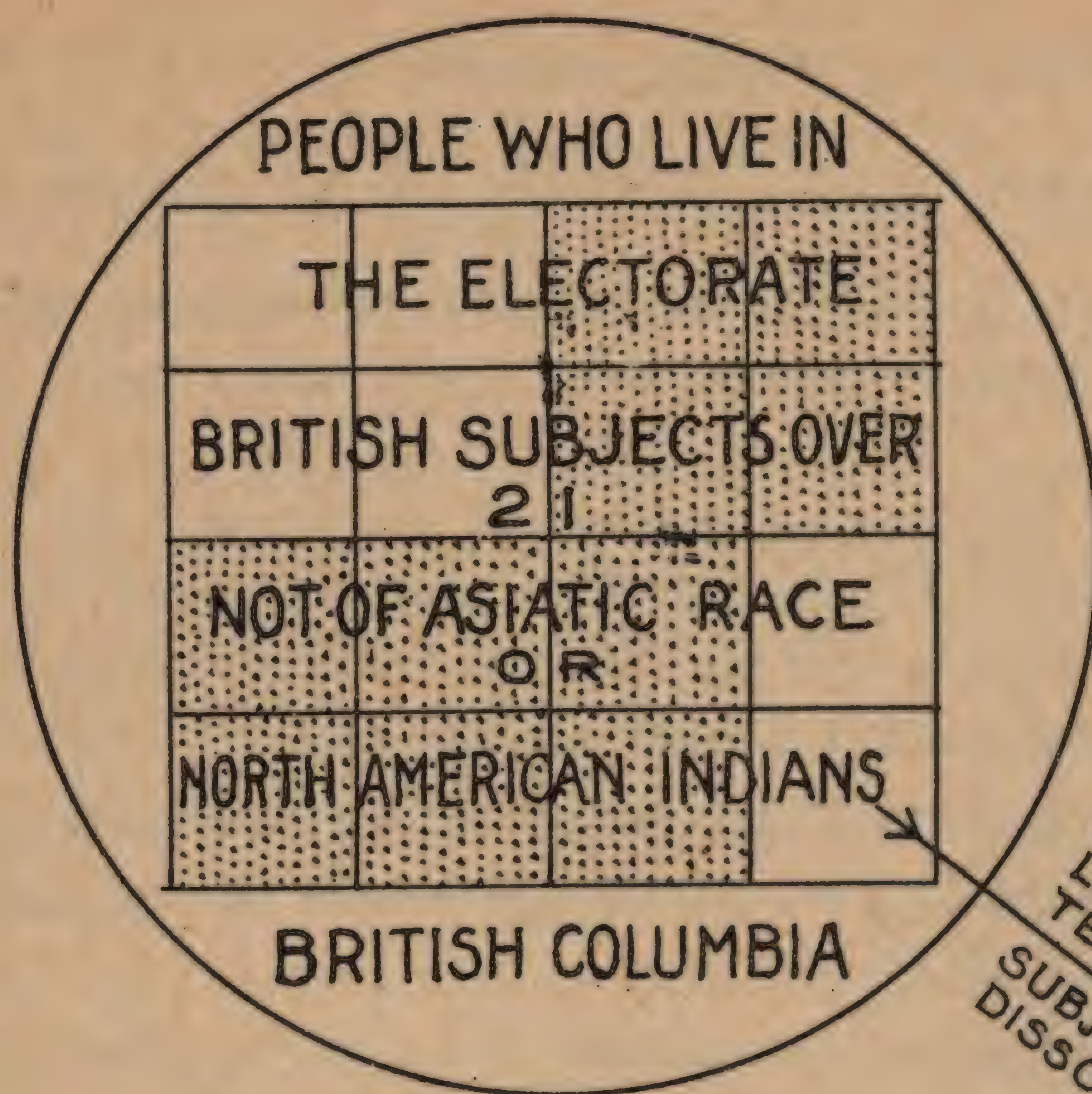
4. The Lieutenant-Governor represents (a) the Governor-General; (b) the King; (c) the Premier; (d) nobody.

5. A Political Party is (a) an official reception at Government House; (b) a man whose chief interest lies in politics; (c) an association of citizens for securing political objects; (d) a meeting of candidates for the Legislative Assembly.

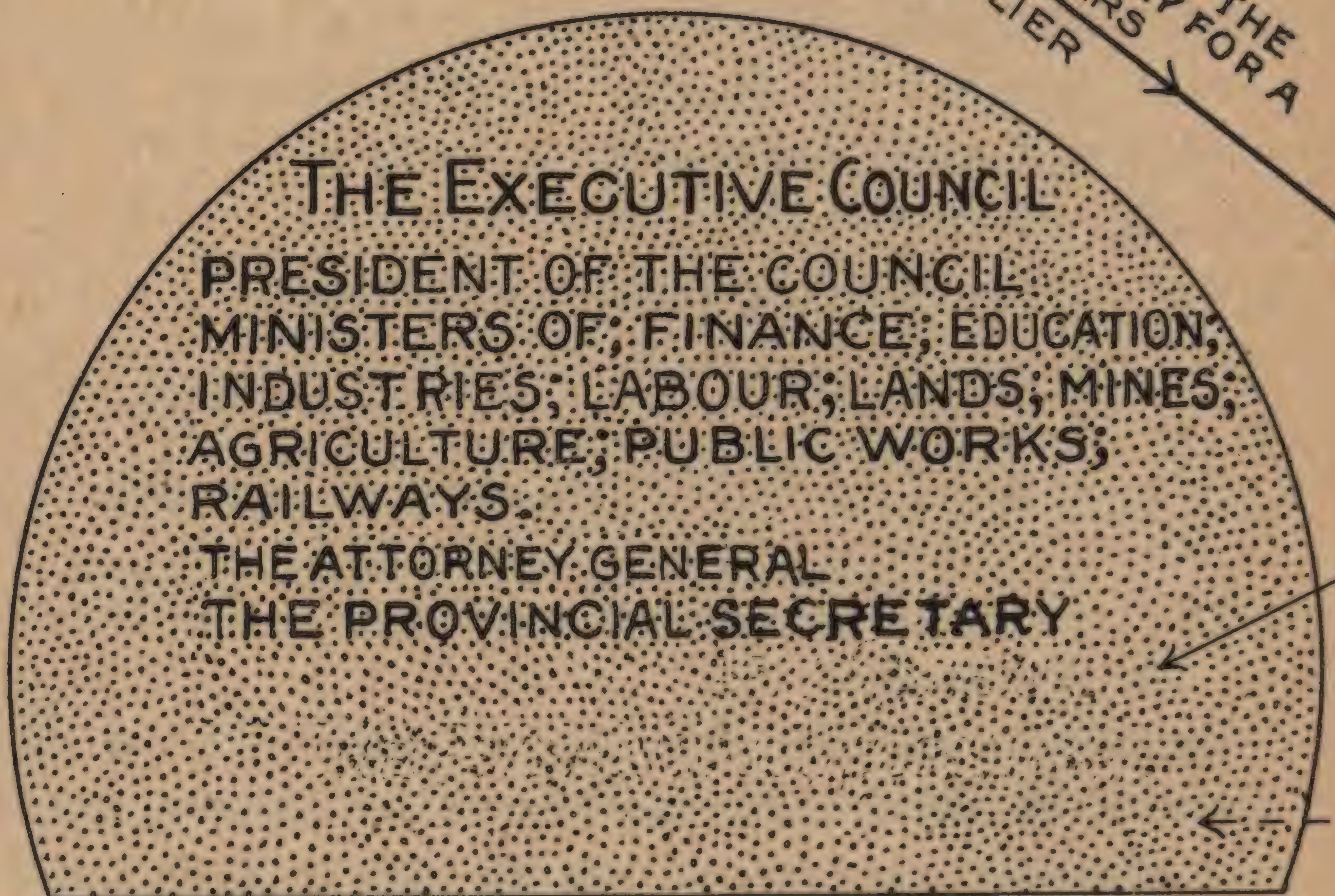
TRUE FALSE TESTS.

(See the explanation on page 20 at the end of Chapter I.)

1. If members of the Legislative Assembly pass bad laws they are sent to prison.....True. False.
2. The Lieutenant-Governor is appointed by the Dominion GovernmentTrue. False.
3. Members of the Executive Council must resign if they lose the confidence of the Legislative Assembly.....True. False.
4. Civil servants are men chosen for their good manners..True. False.
5. Office-holders may not be members of the Legislative AssemblyTrue. False.
6. The leader of the opposition is appointed by the PremierTrue. False.
7. Members of the Executive Council are elected by the peopleTrue. False.
8. The Lieutenant-Governor must follow the advice of his responsible ministersTrue. False.



VOTING BY TERRITORIAL
CONSTITUENCIES ELECTS THE
LEGISLATIVE ASSEMBLY FOR A
TERM OF FIVE YEARS
SUBJECT TO EARLIER
DISSOLUTION

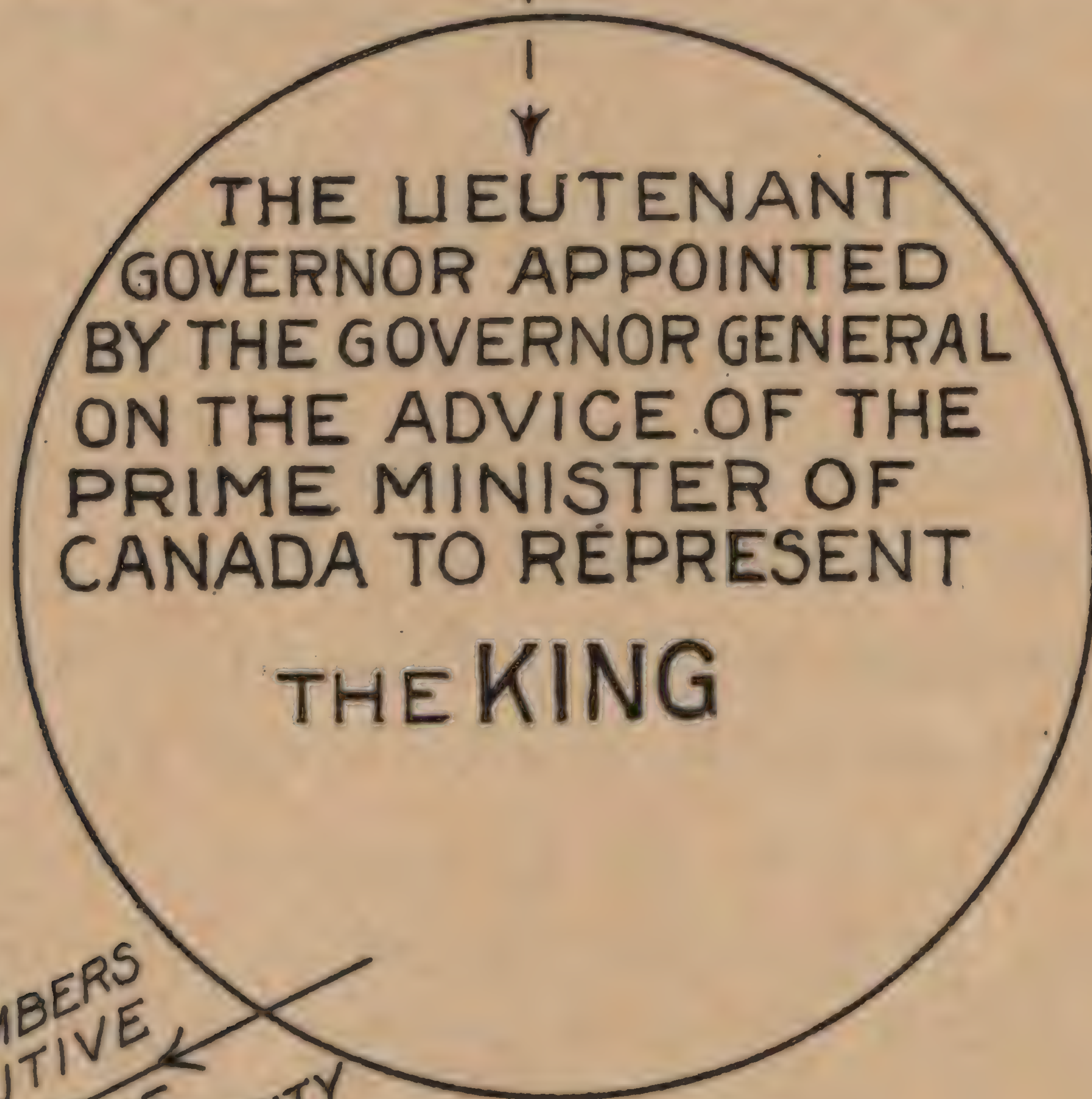


NOTE *That one man may hold more than one
Office, and that there may never be more
than Twelve members of the Executive Council*

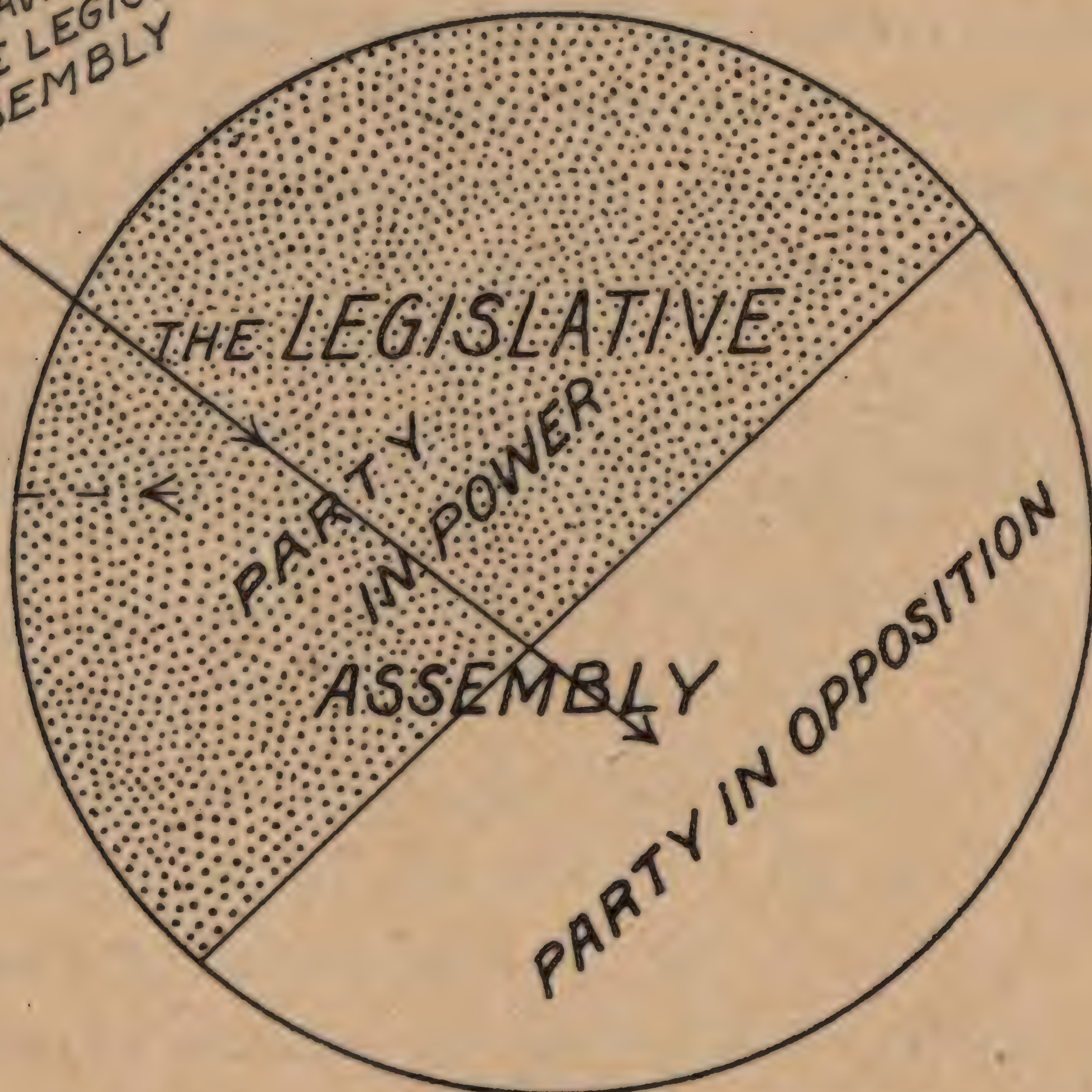
DIAGRAM TO REPRESENT THE ORGANI



WHO IS REPRESENTED
BY THE LIEUTENANT GOVERNOR



THE LIEUT. GOV.
APPOINTS THE MEMBERS
OF THE EXECUTIVE
COUNCIL FROM THE
PARTY HAVING A MAJORITY
IN THE LEGISLATIVE
ASSEMBLY



IZATION OF THE GOVERNMENT OF BRITISH COLUMBIA

COMPLETION TESTS.

(See the explanation on page 20 at the end of Chapter I.)

At the head of the government of British Columbia is the....., who is appointed by.....and acts in the name of..... He chooses as his advisers men who are called.....and who constitute the..... These men are assisted in the administration by permanent officials called..... They are responsible for their actions in office to....., which consists of..... members elected by the people, who are grouped for this purpose in.....

GENERAL QUESTIONS.

(See the explanation on page 21 at the end of Chapter I.)

1. Describe the causes which led to Confederation in 1867. What questions gave rise to most discussion?

2. Discuss the negotiations which led to the entry of British Columbia into the Confederation in 1871. Were any special terms involved?

3. How many of the forty-eight members of the Legislative Assembly of British Columbia can you name? Who is the member for the electoral district in which you live? When was the last election?

4. Get a copy of the declaration which a citizen must sign in order to be placed on the provincial voters' list.

5. How many members of the Executive Council can you name? Who is the Premier, who the Minister of Education, who the Provincial Secretary?

6. What are the names of the political parties in the Province? To which does the member from your electoral district belong?

CHAPTER IV.

OUR CIVIL LAW—COMMON LAW AND STATUTE LAW.

We have described the Legislative Assembly which is the law-making body of the Province. The laws which it makes are called Acts, or Statutes, and are published year by year as the Statutes of British Columbia. At intervals the legislation which has been passed is revised and consolidated and then published in three big volumes as the Revised Statutes of British Columbia. The most recent revision was made in 1924. But before considering these statutes, or laws, made by a law-making body, we must say a little about a large portion of our law which is in a different form and has a different source.

In 1858 the Governor of the Colony of British Columbia, Sir James Douglas, issued a proclamation introducing into the Colony English Law as it existed at that date, except in so far as local conditions made it inapplicable. This has been confirmed by statute in very wide terms: "The Civil and Criminal* Laws of England, as the same existed on the nineteenth day of November, 1858, and so far as the same are not from local circumstances inapplicable, shall be in force in all parts of the Province; but the said laws shall be held to be modified by all legislation having the force of law in the Province, or in any former colony comprised within the geographical limits thereof." Now, the law of England was very complex in its nature. Part of it consisted of statute law enacted, at one time or another, by the Parliament of England or of the United Kingdom; and part had been developed by decisions in the Courts of Justice. This latter portion is known as English Common Law and it is

* Note that Criminal Law is a subject with which the Dominion alone can deal. (See Chapter XIII.)

important that we should be quite clear about what the Common Law is. Writing of English conditions as late as 1912, Professor Geldart said: "In spite of the enormous bulk of the Statute Law—our statutes begin in 1235 in the reign of Henry III., and a large volume is now added every year—the most fundamental part of our law is still Common Law. No statute, for instance, prescribes in general terms that a man must pay his debts, or perform his contracts, or pay damages for trespass or libel or slander. The statutes assume the existence of the Common Law; they are the addenda and errata of the book of the Common Law; they would have no meaning except by reference to the Common Law. If all the statutes of the realm were repealed, we should still have a system of law, though, it may be, an unworkable one; if we could imagine the Common Law swept away and the Statute Law preserved, we should have only disjointed rules torn from their context, and no provision at all for many of the most important relations of life." This mass of law which was developed without legislation consists of the rules which were applied in the English courts to decide the cases, or disputes, which came before them. The judges were never able to say—nor can they say to-day, either in England or here—that they knew of no rule which was applicable to the facts with which they had to deal. They have always had to find some rule. They were bound to accept a statute if one existed. If there were no statute on the subject they attempted to find a previous decision in a similar case. If there were no similar case recorded the general principles believed to underlie previous decisions in other cases would be made the basis for a new rule. Naturally in early times there was much greater freedom in creating new rules in this way than could exist after a vast number of cases had been decided and recorded. When a court applies a rule as a law not because it has been en-

acted by a law-making body, not because it is right and fair, but because it has been the basis for a previous decision, we call the previous decision a precedent. Where no statute exists our courts are bound to follow precedents and the precedents which they are bound to follow make up the Common Law.

So English Common Law, as it had developed in 1858, and English legislation previous to that year, form the basis of our law in British Columbia. English Law, as it existed at an earlier period, formed the basis of the law of many of the States of the United States, and it formed the basis of the law of all the other provinces of Canada, except Quebec, and of many other parts of the British Empire.* To have a great mass of law in common, to be governed in our daily life by the same general principles and often by the same detailed rules, forms a very close bond between ourselves and these other communities. The task of our law-makers, as of theirs, has been to adapt this mass of law to the local conditions, and to modify it to keep pace with the changes which time has brought, both in the conditions of our life and in our ideas of what is right and fair. In the case of our own province the changes have been such as were required to meet the needs of a young and growing country during the last fifty years. In some branches of our law these changes have been very extensive, while in others there has been little, if any, alteration. Sometimes we have followed changes made elsewhere, sometimes we have tried experiments of our own.

It is the Legislative Assembly of the Province and not the Parliament of Canada which may make laws coming within the class of subject described as "Property and Civil Rights in the Province." This heading includes the great

* Remember that, in each case, English Law was adopted as it existed at a particular time.

mass of law which is not specifically described elsewhere and most of the law which concerns us in everyday life. By our property we ordinarily mean those things which we can treat as we please: use, destroy, sell, or give away. For us to be able to treat something in this way we must be entitled to prevent others from using it at all; and our rights of property are, accordingly, protected by rules which prevent others from interfering except when it is reasonable, in the general interest, that they should be permitted to do so. For instance, no one is entitled to destroy or damage your house, and yet to prevent a dangerous fire from spreading it might lawfully be pulled down. The rights which we enjoy over our property are very wide, but they have their limits, and the definition of these limits is one of the tasks of the Legislature.

Some classes of property require special legislation. It is very important, for example, that we should always be able to find out who owns particular pieces of land, or, if the ownership is disputed, who the claimants are. To enable us to do so, and to accomplish closely related purposes, such as the protection of rights which some people may have over the land which belongs to others, a Land Registry Act has been passed, which provides for the public registration of all important transactions in land and protects those whose rights or claims are duly registered.

We have seen that laws have been made largely for the peaceable settlement of conflicts of interests. One of the most fruitful sources of these conflicts has, from the very earliest times, been the question of how a man's property should be disposed of when he dies. The man himself may have expressed his wishes on the matter; his relatives may consider that they have special claims; the government may claim a share of the property, or may be interested in seeing that proper provision is made for the support of dependents.

English Law, in the form in which the Province adopted it, allowed a man the widest possible power of determining what was to happen to his property on his death. It required, however, that his wishes should be expressed in a formal document, called a will, which had to be signed by him in the presence of two witnesses. If a man died without making a will, rules were provided for the distribution of his land and other property. These rules have been modified by our Legislature and provision has been made for the support of a man's wife and children out of the property which he leaves on death, in spite of any will which he may have made in favour of some one else. Finally, in British Columbia, as in most other countries, part of the estate of a dead man is taken by the government as a form of taxation.

One branch of the law which deals with civil rights has to do with personal relations. The rights and duties of parents and children are defined. As children have not the same ability to take care of themselves as grown-up people have, they are protected in many ways. Speaking generally, we may say that an Infant—the legal term for a person under the age of twenty-one—is not bound by the agreements which he may make, but is responsible for his wrong-doing in the same way as an older person. There are exceptions in both cases: an infant is bound by agreements by which he buys things which are necessary for him; and youthful offenders are treated with special leniency. If an infant is left without parents a guardian is appointed to manage his property. There are other classes of persons besides infants who are in need of special protection, and for the insane, the weak-minded, and the drunkard special rules have been made. Until recently women were generally considered less competent than men to conduct business, manage property, take part in public affairs, or exercise certain professions, and many disqualifications were based on this belief. A few

of these, but very few, still remain. Some subjects which we should expect to find in the category of civil rights with which the Provincial Legislature can deal have been specifically entrusted to the Parliament of Canada, because it is important that they should be regulated in a uniform way throughout the whole country. These include marriage and divorce, and, as part of the Criminal Law, the responsibility of children for crimes.

A second branch of the law which deals with civil rights has to do with contracts. A contract is a legally binding promise. It is, no doubt, wrong to make any promise and not to keep it, but it is not every promise which the law of the land will enforce. Roughly speaking, a promise is enforceable only if it is made with certain formalities, such as a sealed writing, which call the attention of the parties to the seriousness of what they are doing; or if it is made in return for some benefit, or promise of a benefit, from the other party. In the first case the promise is called a covenant; in the second case the benefit is called consideration. Even when a sealed writing is not used, writing and a signature may be required to prove that a contract has been made, and to prove what its terms are. Quite apart from these general requirements, an agreement will not be enforced if it is immoral, or contrary to the general ideas prevalent as to sound public policy; nor will it be enforced if it has been extorted by force or obtained by fraud.

When we speak of a contract being enforced, what we usually mean is that the party who suffers loss from the default of the other must be compensated, and that the party in default will be compelled to pay what are called damages. There are, however, a few contracts, mainly relating to dealings in land, which the law will enforce specifically; i.e., by compelling the person who has made the promise to do exactly what he has promised to do.

Sometimes one single class of contract is so important and so many rules have arisen concerning it, that a special Act is passed to sum up the rules and to deal decisively with any doubtful points. Once such an Act has been passed in one of the countries using English Common Law it may form a useful pattern for the others to follow. You will find, for instance, that our Province has a Sale of Goods Act, and a Partnership Act, very similar to those enacted in England.

Certain classes of contract are governed by laws made by the Parliament of Canada, which has specific authority to deal with them.*

A third branch of the law dealing with civil rights protects us from suffering loss through the acts or negligence of others. In order that such protection may be given it is necessary to decide what acts are so wrongful that those who perform them must compensate those who are injured by them, and when we are bound in duty to take care not to harm others. Just as it is wrong not to keep promises, even if the law will not enforce them, so it is wrong to harm others, though it is not always that those harmed can obtain redress. It is by no means easy to decide what sort of rule would be just and reasonable in matters of this sort. For instance, if your neighbour keeps a dog, and the dog bites you, should the neighbour be responsible for the medical expenses which you may be obliged to incur? And, if so, on what ground? Is it wrong to keep a dog? Or is it only wrong if you know that the dog is savage? Or is the owner bound to find out, at his peril, whether the dog is savage or not? Nor is it easy to say exactly what care we are bound to exercise in other matters: in burning rubbish, in driving an automobile, in operating a street railway. This is a part of our law about which it is not easy to generalize. Rules of Common Law have grown up making certain definite

* See Chapter XII.

things wrongful. If harm is done to us in one of these ways we can obtain damages. In certain definite cases a duty to exercise care is recognized as arising either from an undertaking to do something properly, or from a general duty which we owe to our neighbours. For loss which we sustain in such cases we can recover damages from the person bound to exercise care. In other cases, even though we suffer loss, we have no redress. A few illustrations may be of interest.

Any direct application of force to a man is called a battery; an attempt to apply it, or a threat such as aiming a gun at him, is an assault. Both are actionable wrongs, or, in legal terminology, torts. Any restraint of a man's liberty, if it is not legally justified, is a false imprisonment and is actionable. In all these cases there may be defences which justify an act that would otherwise be wrongful. For instance, you may *consent* to have a tooth pulled, or you may be kept in after school hours as a punishment.

To publish—i.e., to communicate to a third party—statements about a man which bring him into “hatred, ridicule, or contempt” is a libel if the statements are in a permanent form. If they are merely spoken the wrong is called a slander. The injured party may recover damages if the statements were untrue, unless the person who made it was “privileged” to do so because of the special circumstances. A member who made a speech in the Legislature, a witness who gave evidence in court, a person who, in good faith, gave a character to a servant would be privileged; i.e., would incur no liability though the statement might be both defamatory and untrue.

To interfere with property which is in another's possession is called a trespass and is an actionable wrong even if no actual damage is done. To refuse to give up another person's property on demand, or to destroy it, is called a

conversion and the wrong-doer must give up the goods or pay their value.

To interfere with another person's enjoyment of his land—e.g., by allowing branches to overhang it, or by piling garbage beside it—is called a nuisance. Damages may be obtained and the wrong-doer may be ordered by the court to refrain from further offence.

These few examples will serve to show how important this part of our law is. By defining torts, or actionable wrongs, the courts created and protected the rights of the individual to personal freedom and to the undisturbed enjoyment of his possessions. The laws which grew up in this way have been of great importance in our public, or constitutional, law because the courts insisted on the principle that the King could neither do wrong himself, nor authorize any one else to do wrong. This rule, which at first sight suggests a monstrous tyranny, has been a safeguard of liberty, because through it, the servants of the Crown have been held to strict accountability for their acts. If these acts were wrongful, i.e., were torts, the servants of the Crown could never say that they were the King's acts, for the reply would be that the King could not do wrongful acts; nor could they say that the King had authorized the acts, for the reply to this would be that the King could not authorize a wrong. It is the application of these principles which makes it difficult for the government to arrest a man without legal justification, for the arrest would be a wrong and the person who made it would be individually answerable. It should be added that when important individual rights are in question the jury which assesses the damages is not bound to limit its estimate to the actual monetary loss suffered but may give larger damages which are meant to punish the wrong-doer.

Another branch of our law deals with the prevention and punishment of wrongful acts of a more serious character, which are known as crimes. The law on this subject is made by the Parliament of Canada in order that it may be the same throughout the whole Dominion.* It would have been very convenient, in some ways, if a great deal of the law which has been discussed in this chapter could be uniform in all the provinces. But the people of Quebec, which has a very large French population, are attached to the rules which had been used in France, and which have been collected in a systematic form constituting what is called a code; while the people of the other provinces prefer the English Common Law as the basis for their law. If the Provincial Legislature in each of these provinces were to make changes in the law of its province, without considering what was being done in the other provinces, great and inconvenient differences might result. To keep the laws as uniform as possible a commission has been appointed to make necessary recommendations to our Legislative Assembly.

BEST ANSWER TESTS.

(See the explanation on page 19 at the end of Chapter I.)

1. English Common Law consists of (a) Acts passed by the English Parliament; (b) the rules applied in decisions of English courts; (c) the proclamations of English Kings; (d) Magna Charta and the Bill of Rights.

2. A contract is (a) an agreement made in writing; (b) an agreement to work for money; (c) any legally enforceable agreement; (d) an agreement made under oath.

3. The Revised Statutes of the Province of British Columbia contain (a) all the laws which are in force in the Province; (b) all Acts passed by the Legislature of British Columbia which are in force in the province; (c) the Acts of the Legislature of British Columbia passed in the current year; (d) Acts of the Parliament of Canada which apply to British Columbia.

* See Chapter XIII.

4. English Common Law was introduced into British Columbia by (a) the Parliament of Canada; (b) the King; (c) a proclamation of Sir James Douglas; (d) a proclamation of Sir Wilfrid Laurier.

5. English Common Law prevails in (a) Scotland; (b) Quebec; (c) South Africa; (d) most of the states of the United States.

TRUE FALSE TESTS.

(See the explanation on page 20 at the end of Chapter I.)

1. A statute is a law made by the decision of a court....True. False.
2. English Law was introduced into British Columbia by a Proclamation of Sir James Douglas.....True. False.
3. English Common Law has been accepted in Quebec....True. False.
4. Our property consists of things which we have made..True. False.
5. An Infant is not legally responsible for wrong-doing..True. False.
6. When a contract is enforced the party in default is punishedTrue. False.
7. The King can do no wrong.....True. False.
8. Contracts that are contrary to public policy cannot be enforcedTrue. False.
9. A person under the age of twenty-one is an infant....True. False.
10. English Common Law is the basis of the law of most of the states of the United States.....True. False.

COMPLETION TESTS.

(See the explanation on page 20 at the end of Chapter I.)

When Jones called on a friend the gardener hit him in the eye. This was a..... The gardener's son said that he saw Jones stealing a spoon. This was a..... When Jones got home he found that some boys had spoiled his lawn by playing football on it. This was a..... He brought action in the courts and was awarded.....to compensate him for his losses. Before he died he made a.....leaving his house and all his other.....to his son.

GENERAL QUESTIONS.

(See the explanation on page 21 at the end of Chapter I.)

1. Give a short account of the career of Sir James Douglas. What former colony or colonies were comprised within the geographical limits of the Province of British Columbia?

2. What is meant by saying that "our statutes begin in 1235, in the reign of Henry III."

3. Is it reasonable to call Edward I. one of the greatest of English law-makers? What important statutes were passed in the early years of his reign?

4. Find some examples of things which you do in order to treat others fairly although there is no law to compel you to do them. Find some examples of things which others do for you in the same way.

5. What laws prevailed in French Canada at the time of the Conquest? How did English criminal law come to be introduced into French Canada but not English civil law?

CHAPTER V.

ORGANIZED ACTIVITIES.

In the last chapter we discussed laws which have to do with the settlement of conflicts of interests, and we must now examine some of the laws whose aim is to provide for organized action in cases in which individual action is inadequate. A discussion of the question of how far it is right or desirable to interfere with the free action of individuals in striving to promote the common welfare of all must be postponed;* but, as we examine the work of the Legislature, we should notice that the tendency in recent years has been towards a greater supervision of the activities of individuals.

In the first place, a great many trades, professions, and commercial undertakings have been regulated for the purpose of protecting the public. Dangerous works may be carried out only with adequate precautions; people who undertake certain important tasks must have some qualifications for them, and there is some supervision of those whom the public must trust in financial matters. Thus special rules are made for safety in mines and factories. The professions of Medicine and Surgery, Dentistry, Nursing, Law, Architecture, Engineering, and many others are governed by special acts, which usually provide for entrance examinations controlled by those already engaged in the profession. Trust Companies are supervised and the business of Insurance is regulated.

In the second place, a number of public services are undertaken by the government, of which education is the most important. A public school system has been established by a provincial law administered in part by the provincial government and in part by bodies called boards of school

* See Chapter XIX.

trustees, which are chosen locally. Free elementary and secondary education is provided for all children between the ages of seven and fifteen. This education is compulsory in the sense that a child must undergo it unless he is being adequately educated in some other way. No religious instruction is allowed. The provincial organization includes: (1) a department of the provincial civil service with an official called the Superintendent of Education at its head; (2) a responsible Minister of the Crown, called the Minister of Education; and (3) the Council of Public Instruction, which is composed of the Executive Council of British Columbia. It is the Council which decides what is to be taught in the schools, what text-books are to be used, and what the proper qualifications for teachers are to be. Local management, including the appointment of teachers, is in the hands of the boards of school trustees. Money is provided partly by the Province, by way of grants to organized school districts, partly by local taxation, as will be explained later. The school trustees are elected locally. They are called trustees because property is entrusted to them for management on behalf of others who are the real owners of it. They are said to constitute a board because each group of trustees has a corporate existence—an existence independent of that of its separate members and continuous although its members may change from year to year. The result of this system is to make the main outline of education the same throughout the Province, while leaving to the people of each locality some freedom to choose how good they will make their schools, how much, for instance, they will spend on buildings, and what salaries they will offer to attract suitable teachers.

Higher education is entrusted to the University of British Columbia. At the outset, in 1914, instruction was open free of charge to all who could pass its matriculation or entrance examination. At present it is supported partly by funds

provided by the Provincial Legislature and partly by the fees paid by the students. Its direction has been made independent of the government, though, of course, the fact that funds are voted for it year by year makes it possible for the Provincial Legislature to exercise an indirect control by limiting the amount which it will provide. The Legislature could also, if it chose, alter its University Act and change the form of government of the University. As in the schools, no religious instruction is allowed, and no religious tests may be imposed either on the teaching staff or the students. Very wide liberty of thought and expression is allowed to the teaching staff, in accordance with the best traditions of our country. The University aims at preparing the students for the professions, for further study, and for living a good life. It aims also at providing for research; i.e., for organized efforts to discover new knowledge. Instruction is divided among Faculties, one of which deals with Arts and Science, or, roughly, the material for a liberal education; another with Applied Science, or the practical use of scientific knowledge in such professions as engineering or nursing; a third with Agriculture. There is, at present, no Faculty of Medicine, no Faculty of Law, and no organized instruction in Commerce or in Music. For university training in these branches of knowledge it is still necessary for students to leave the province, and to study elsewhere in Canada, or abroad.

Before leaving the question of education we should mention the Normal School for the training of teachers, which is an older institution than the University. In early projects it was contemplated that the University should include the Normal School, and very recently a Teachers' training course has been established at the University, which may, in certain cases, take the place of work at the Normal School.

We shall find that some work that is really educational is being done by the government through other departments. As examples may be mentioned: the work of the Department of Agriculture; the provision of circulating libraries; the maintenance of the Provincial Museum of History and Anthropology at Victoria; the provision of reformative instruction for youthful offenders.

Another public service undertaken by the government is that connected with the safeguarding and improving of the public health. Often what is everybody's business is nobody's business, and the most elementary hygienic precautions would be neglected if individual citizens were not supervised by public officials. A Provincial Board of Health has been established, which consists of the Lieutenant-Governor in Council. To advise it on technical matters, and to carry out its instructions, it has a secretary and officers who correspond to the civil servants in other departments. On a wide range of subjects the Board may make rules and orders, which are, to all intents and purposes, laws. To entrust powers of this sort to a Board which is expected to act on expert advice is one way of avoiding the danger of laws being enacted by people who have neither the proper technical knowledge, nor the power of taking rapid action in an emergency. The matters which may be dealt with by the Board include: the regulation of offensive or noxious trades; the inspection of public halls and buildings to ensure their being kept in a sanitary condition; the supervision of the preparation of food—e.g., in dairies, creameries, and market gardens; the isolation of infectious and contagious diseases; the control of burials and of crematoria; preventive measures against tuberculosis; vaccination; the inspection of boarding and lodging houses; the inspection of camps and places where labour is employed; the requiring of certain diseases to be reported or notified by medical men who detect

their presence; the proper information and instruction of the public.

There are local Boards of Health throughout the province. The council of every municipality is a Board of Health. City municipalities, and other municipalities if required to do so, must employ a Medical Health Officer. These local boards see that the regulations of the Provincial Board are carried out, and exercise other administrative functions.

Sometimes the measures taken to promote the public health do not secure the ready support of the public. Many people think that the measures, or some of them, are unnecessary or not worth while; some measures arouse strong opposition. In the work of publicity a government department has two tasks: it must explain why the proposed measures are considered useful and urgent; and it must point out that, even if the utility of a measure is not beyond dispute, it should nevertheless be complied with cheerfully, because it is only by unanimous support that it can be made effective. Progress would be very slow if every one had to be convinced of the wisdom of every regulation before he would comply with it.

A third way in which the individual citizen is interfered with by regulations aiming at the good of all is by forbidding certain agreements that are considered unfair. Under the old Common Law a workman who accepted work was treated as having agreed to undergo the risks that it ordinarily involved. If, therefore, he were injured in an accident which occurred without special negligence on his employer's part, he had no right to compensation from his employer. If he were injured by the negligence of a fellow workman he had a claim against the workman but not against the common employer. A man might agree to work for any length of time that he chose, and under any conditions that he accepted. He might agree to work for any wages, however

low, and he might, by arrangement, be paid in goods and not in money. In one sense he enjoyed complete liberty of bargaining; but this liberty was more apparent than real, as the workman was often poor and the alternative to accepting the terms which were offered to him was starvation. An agreement with his fellow workers to raise the price of their labour was treated as a criminal conspiracy, just as an agreement to raise the price of eggs might have been treated.

In almost every country in the world a great mass of legislation has been enacted, during the last hundred years, to protect labour against bargains of this sort. In our own province there has been set up a department of the civil service, known as the Department of Labour, with a responsible minister at its head. Among the duties of this department are: the administration of laws dealing with labour; the collection of information as to new industries and opportunities of employment; and the collection of information as to foreign legislation on the subject. The conditions of work in mines and factories have been carefully regulated; and, with a few exceptions, the hours of work in all employments have been limited to eight hours a day for six days in the week. There is a board of adjustment which applies this regulation and makes the necessary exceptions in the case of seasonal work, and work which must be carried out rapidly. In addition to Sunday, a weekly half-holiday is provided for in some occupations. The payment of wages otherwise than in money is forbidden. Women are specially protected. Their employment immediately before and after childbirth is forbidden, and a minimum wage is fixed for all women.* This wage, the maximum hours of work, and the conditions of work are settled for the different occupations by a Minimum Wage Board of three members. The

*An Act passed in 1925 provides for the establishment of minimum wages for men in most occupations except farm labour, fruit-picking, and domestic service.

rules do not apply to women engaged in farm labour, fruit-picking, or domestic service.

Injuries to workmen in the course of their employment have been dealt with in an excellent measure, the Workmen's Compensation Act, which applies to a very wide range of occupations, and may, on request, be extended to others. This Act provides for an accident fund maintained by assessing employers on the basis of the wages which they pay. The employer may deduct one cent a day from each employee as his share of the contribution. Out of this fund compensation is paid for personal injuries, unless they result from the serious and wilful misconduct of the workman concerned, and do not cause death or permanent disability. No workman may agree to waive compensation under the Act. Medical aid is also provided by the Workmen's Compensation Board, to which the administration of the Act and the settlement of claims under it are entrusted. This Board consists of three members. It not only deals with accidents which have occurred but also takes preventive action. It may order safety devices to be used in particular industries, may inspect premises, and may carry on educational work. One very important consequence of the system established by the Act is that all conflict of interests between employer and workman, at the time of an accident, has been removed. The employer is anxious to obtain as much compensation as possible for the workman, while, before the Act, his interest lay in showing that the accident arose from the latter's carelessness.

A fourth class of legislation has to do with the relief of the unfortunate and indigent. The duty of preventing the poor from starving has been recognized from a much earlier period than the duty of attempting to prevent poverty from arising. The circumstances of our province, and the relative infrequency of extreme poverty, have enabled us to do with-

out the very elaborate arrangements for poor relief which have been necessary in older countries. Much of the work is done by the municipalities and a Provincial Home is maintained for helpless people, whom no municipality is bound to support, and who have been resident in the province for fifteen years. In one direction relief has been given on a more generous scale and without requiring the recipients to enter institutions. Destitute widows and deserted wives, with a child or children under sixteen to support, receive pensions. In order to prevent relief of this sort from attracting people for whom provision should be made in other countries, or in other provinces, it is provided that the woman must be a British subject,* and that she must have been resident in the province before becoming destitute.

A fifth class of legislation concerns the promotion of our economic interests. Some of these have to do with the conservation and management of our natural resources, and the regulation of the conditions under which individuals may use them. Our water-power, for instance, is a permanent source of wealth. To avoid conflicts it must be made clear who is to be entitled to utilize it, and on what terms. Our forests are also a great source of wealth, and similar rules must be made. But the forests are steadily depleted by use and are in constant danger of an even more rapid depletion by fire. Provision must be made for replanting them, or allowing them to grow up again; and they must be protected, as far as possible, against fire. Our mines are a third great source of wealth and require regulation. Like the forests, they are subject to depletion, though, in many cases, the process will be very slow. Unlike the forests, they cannot be replaced. Finally, the existence of mineral wealth is more difficult to discover than the existence of water-power or of forests. To encourage its discovery the rights of those who

* See Chapter XVI.

discover it are given some protection. Within this fifth class of legislation comes the preservation of game. Fisheries, as we shall see, are controlled by the Parliament of Canada.

One of the most important occupations of the people is Agriculture. There is a Department of Agriculture with a responsible minister at its head. Its duties consist in collecting and disseminating information, and in co-operating in the corresponding work done by the government of the Dominion. Much of the work of promoting agricultural interests is done by various co-operative societies formed by those actually engaged in the industry.

To promote the industrial development of the province, a Department of Industries has been established. Its duties are largely connected with collecting information as to industrial opportunities and bringing it to the attention of those most likely to avail themselves of it.

As a sixth class of legislation might be mentioned the undertaking of public works by the government. Some of these works are expected to yield a revenue; others are not. But they all involve an outlay of public money and can, therefore, be more conveniently discussed in the chapter on public finance.

BEST ANSWER TESTS.

(See the explanation on page 19 at the end of Chapter I.)

1. The Council of Public Instruction is (a) a school board; (b) an annual meeting of teachers; (c) the Executive Council of British Columbia; (d) an association of ratepayers.

2. The Workmen's Compensation Act is a measure which aims at (a) compensating workmen for injuries received in the course of their work; (b) compensating workmen for the unpleasant character of the work they have to do; (c) providing for pensions in old age; (d) compensating employers if their workmen do bad work.

3. Fisheries are regulated by (a) the Provincial Legislature; (b) the Executive Council; (c) the Provincial Board of Health; (d) the Parliament of Canada.

4. The University of British Columbia has been established to
 (a) regulate the practice of Medicine, Dentistry, Nursing, and Law;
 (b) supervise the work of the Legislative Assembly; (c) provide
 speakers for luncheon clubs; (d) provide for higher education in the
 Province.

TRUE FALSE TESTS.

(See the explanation on page 20 at the end of Chapter I.)

1. The Council of Public Instruction decides what text-books are to be used in the public schools.....True. False.
2. Instruction at the University of British Columbia is free of chargeTrue. False.
3. The council of every municipality is a board of healthTrue. False.
4. Men and women may work as long as they please for any wages that they are willing to accept.....True. False.
5. The Provincial Home is the official residence of the Lieutenant-GovernorTrue. False.
6. There is a Faculty of Medicine at the University of British ColumbiaTrue. False.
7. Laws for the protection of our forests from fire are made by the Legislature of the Province.....True. False.
8. Rules concerning the protection of the public health are made by the Provincial Board of Health.....True. False.
9. No woman who is not a British subject may receive a Mothers' PensionTrue. False.
10. No woman of the Chinese race may receive a Mothers' PensionTrue. False.

COMPLETION TESTS.

(See the explanation on page 20 at the end of Chapter I.)

The.....decides what books are to be used in the schools in British Columbia. The Minister of.....is at the head of the department which looks after the schools. He is responsible to..... He is assisted by a staff of permanent....., at whose head is the..... Teachers are appointed by..... Higher education is entrusted to....., which is supported in part by funds provided by the..... The students pay..... Teachers for the elementary schools are trained in the..... and teachers for the high schools at the.....

GENERAL QUESTIONS.

(See the explanation on page 21 at the end of Chapter I.)

1. Find out the conditions for admission to the practice of some one profession in the Province.
2. Get some medical man to discuss the measures which are taken to protect the public health in your district and to explain why they are taken.
3. What labour legislation was passed in the reign of Queen Elizabeth? How does it compare with modern labour legislation?
4. What was the effect of the Industrial Revolution on labour conditions in England? In Canada?
5. What measures are taken for the relief of the poor in your locality?
6. Which of our natural resources are most important in your neighbourhood? What measures, if any, are taken for their protection?

CHAPTER VI.—PART I.

MUNICIPAL INSTITUTIONS AND LOCAL GOVERNMENT.

Just as there are many matters which can be regulated best in each province separately, so that account can be taken of local conditions, there are other matters which can best be dealt with by even smaller communities. Uniform regulation and control throughout the province would not be desirable in matters of purely local interest. Many affairs can be managed wisely and well only by the people on the spot. These are the people who are seriously concerned. They gain most if the affairs are managed well and lose most if they are managed badly. Some public works are of purely local interest. They are of benefit only to comparatively few, and it is best that those few should judge whether the works are worth their cost. The Provincial Legislature could not deal with matters of this sort in a satisfactory way. Most of its members would have very little knowledge of the particular local conditions which are of importance in deciding whether a road or a bridge is worth constructing. Nor have the members of the Legislative Assembly time for the detailed consideration of the needs of every locality in the province. The Legislature has, therefore, provided for the creation of means for consultation and decision by the people most concerned. In some matters, however, provincial supervision is maintained.

Even when public services are directed by the government of the province, there may be details connected with their management which can receive proper attention only if they are left to the care of local organizations. For instance, the question of how much it is desirable to spend on some particular public service is often one that can be best

decided locally. In such cases, too, use is made of the means provided for local consultation and decision.

The type of organization which has been created for these purposes is not a new invention, but is based very closely on what has developed steadily through a long period of English history. In the Middle Ages the inhabitants of boroughs or towns often purchased from the King a charter which authorized them to elect a mayor and council to manage their affairs. As the kings were often in need of money the sale of charters was frequent. Later the government came to rely on the borough councils for carrying on a large part of the administrative work of the country. In British Columbia we have made use of a similar institution which we call the municipality. But our municipalities, unlike the old boroughs, are not organized one by one as the result of a special bargain with the government. We live in an age in which comprehensive plans, worked out by general laws, have largely taken the place of the slow unconscious growth of individual institutions. And we live in a new country in which institutions have to be planned, not merely for the needs of to-day but for the probable needs of a period of rapid growth. Our legislature, in providing for local government throughout the province, took as its unit the municipality. It left people free to form municipalities as they were required.

By the Municipal Act provision is made for the incorporation of the people of districts which are sufficiently populous into one or another of three types of municipality: the city, the district, or the village. By the incorporation of the people into a municipality is meant that they are treated by law as forming, for certain purposes, a new unit, called the municipality, which is considered as having an existence distinct from the existences of the people who compose it, or, as is sometimes said, a personality of its own.

It may bring actions in the courts, may make contracts, may incur liability for wrong-doing, and may be sued in the courts. We shall see that it may borrow money, and that, when it does so, its individual members are not bound as individuals to repay the borrowed money. If they were to go away no personal liability would accompany them. They are liable to be taxed as long as they remain in the municipality or have property there; but so is any newcomer to the district. We shall see that the formation of a municipality is not the only case of people being treated as having a collective existence quite separate and distinct from their individual existences.

There is no very substantial difference between city and district municipalities, though the former are normally larger and more important than the latter. Each has its own government, consisting, in the case of the city municipalities, of a mayor and a council of from five to ten aldermen, and, in the case of a district municipality, of a reeve and from five to seven councillors. All these officials are elected. They must be British subjects and must own land of a certain minimum value within the municipality. The minimum is \$1,000 for a mayor and less for the others. There are some special disqualifications meant to exclude from office persons who might be tempted to seek their own advantage rather than that of the municipality. For instance, no one may be elected who has a contract with the municipality, or a disputed claim against it, or who is in its employ.

Only British subjects may vote in municipal elections, and British subjects may not vote if they are by race "Chinese, Japanese, or other Asiatics, or Indians." It is naturally essential that a voter in a municipality should be identified in interest with it. He may be a property-owner, or a householder, or the holder of a trade licence. A company may vote through its duly authorized agent.

A list of the people who are qualified to vote is prepared every year. It is closed on the thirtieth day of November and is publicly posted on the fifth day of December. An opportunity is then given to those who think that their names should be included in the list, or that other names should be struck off it, to appear before a Court of Revision. This court consists of the mayor and two aldermen chosen by the council. There is an appeal from its decisions to a Police Magistrate or a Judge.

A returning officer is appointed each year by a by-law of the council, and the voting places are fixed. Nominations are made by presenting to the returning officer a writing signed by two voters. If more candidates are nominated than there are vacancies to be filled there must be a poll. Voting is by ballot and municipal elections are conducted in much the same way as the election of members for the Legislative Assembly. The object of secret voting is the same in the two cases. No one can be penalized in any way for voting for a particular candidate because no one else can tell for whom he voted. As additional security against the use of improper influences there are elaborate provisions against various forms of corruption.

The municipal council administers the affairs of the municipality within the range of action prescribed by the Provincial Legislature in the Municipal Act. The meetings of the council are open to the public and the best way to form an idea of what its routine work is like is to attend them once or twice. The council is a miniature legislature, for it has extensive powers to make by-laws which, within their proper sphere, are really laws. It is also comparable with the Executive Council, for it carries out the executive work of municipal government, with the help of permanent municipal employees, who correspond to the civil servants in the provincial government.

A few of the more important topics with which the by-laws of a municipality may deal are: (1) the regulation of traffic on the streets, and of the sort of vehicles that may be used; (2) the regulation of buildings to ensure that they are sanitary and free from extraordinary fire-risks; (3) the restriction of certain types of building to certain areas, in order that people who build houses to live in may not find factories being erected next door to them; (4) the regulation of the discharge of smoke and other annoying things; (5) the keeping of land free from weeds which may spread to neighbouring land, and the destruction of caterpillars and other insects; (6) the supervision of amusements; (7) the supervision of certain trades for the protection of the public; (8) the protection of the public health and the inspection of places where food is prepared; (9) the encouragement of industries by grants of money, called bonuses, by loans, by exemption from municipal taxation, or by the free provision of water or light. Encouragement is given in one or more of these ways when it is thought to be worth while to secure the establishment within the municipality of an industry which might otherwise be established elsewhere or not undertaken at all; (10) the encouragement of private undertakings which furnish services for the convenience of the public—e.g., street railways, and the supervision of these undertakings in the interests of the public; (11) the undertaking of services of this character as municipal enterprises, and the provision of irrigation, tramways, telephones, electricity and gas, or water in return for a price to be paid by the consumers; (12) the relief of the indigent and the care of the sick; (13) the imposition of certain classes of taxation by which to pay for the work of administration.

There are several points to be noticed about these powers of the municipalities. First of all, the powers are very wide and the list that has been given includes only the more im-

portant. Secondly, the people of each municipality are left free to choose, in many cases, whether they will exercise the powers or not. For instance, they may go in for municipal enterprises if they like or may trust to private initiative. Thirdly, there are a few tasks which are obligatory, such as proper provision for the public health. Fourthly, the council cannot act, in every case, on its own authority. When important matters are being dealt with the by-law must be submitted to the voters. If an expenditure of money is in question the by-law is called a money by-law, and in this case only those people who own land in the municipality can vote. If a by-law requires the assent of the electors it must receive the approval of three-fifths of those who vote and cannot be carried by a bare majority.

Among the obligatory duties of the municipalities is the maintenance of a police force. The municipality must see that its own by-laws are enforced and it must also look after the enforcement of the laws of the province and of the laws of the Dominion of Canada. It must provide a place for locking up offenders, and if wrong-doers are eventually sent to gaols maintained by the province the municipality must pay for their keep. Inquiries, called inquests, must be held into any deaths whose cause cannot be determined by the certificate of a medical man.

In every municipality there is a Board of Commissioners of Police, consisting of the mayor, or reeve, and two commissioners who are elected for a term of two years and one of whom retires every year. This board makes regulations for the governing of the police force, whose members it appoints and may dismiss at pleasure. But the policing of a municipality may be taken over by the provincial police, either by arrangement between the municipality and the provincial government or by the direction of the Lieutenant-Governor in Council. In the latter case the municipal police

must act under the direction of the Superintendent of Provincial Police.

An Act passed in 1925 has given municipal councils very wide powers in connection with town planning. A Town Planning Commission, composed partly of members from the council and partly of members appointed because of their special qualifications for advising in matters affecting municipal development, may be organized in each municipality. The appointed members will ordinarily serve for three years and will retire in rotation. The commission will advise the council in preparing and keeping up to date a town plan which will show what public improvements, such as the widening of streets and the maintenance of open spaces, are to be undertaken. Once a plan has been made improvements inconsistent with it can be undertaken only if two-thirds of the council agree. The council may pass what is called a Zoning by-law dividing the municipality into districts and prescribing the sort of building which may be erected in each. It is hoped that municipalities, by making their plans well in advance, will be able to avoid many of the evils which have occurred in the past. If residential areas are clearly defined there is no danger of some one building a house and finding that its value is soon destroyed by a shop put up next door to it. If manufacturing areas are set aside proper provision can be made for access by water, road, and rail. Ample provision can be made for playgrounds and open spaces. Narrow streets and dangerous intersections can be avoided. Finally the commissions of adjoining municipalities may meet together to discuss matters of common interest so that the enterprise of one will not be defeated by want of co-operation from the other.

From what we have seen of the powers and duties of municipalities we can readily understand that they require substantial revenues. The provincial government gives them

some direct aid by turning over to them the proceeds of some of the provincial taxes. In addition it has authorized the municipalities to impose certain forms of taxation. Before discussing these sources of revenue we must notice that there is another way in which a municipality can provide itself with money. It can borrow instead of taxing. While, under ordinary conditions, it is the most satisfactory course for governments to raise their revenues directly from the people rather than by borrowing, there are cases in which it is sound policy to borrow money. An expenditure may be incurred for the purpose of installing some equipment which will normally provide some revenue in the future. For instance, a system for supplying water may be installed and it may be expected that the price which the consumers will pay for their water will be sufficiently high to provide money with which to pay for the cost of the system. If the money is borrowed and the revenue is great enough to pay interest on the borrowed money and to provide a fund from which it can be repaid to the lenders by the time the equipment has worn out, then the result of borrowing will have been to avoid the necessity for any taxation at all. In the second place, the expenditure may be for the purpose of carrying out some work which, though it will not bring in a revenue, will be of service to the public for a long period. In such a case it may be more convenient for the public to pay taxes year by year during the whole period, so that the interest on a loan can be met and the loan repaid gradually, than to pay a lump sum in the year in which the equipment has to be bought. The effect of borrowing, in this case, will be to spread taxation evenly over a period of years and not, as in the first case, to avoid it altogether. We should notice, however, that it may be good policy for a small and growing municipality to borrow in these circumstances and yet bad policy for a large and rich municipality to do so. If the

only object of borrowing is to spread taxation evenly, then if some new works are being carried out every year there may be no need to borrow. The same sum may be spent on new works every year and taxation may be kept at the same level without the use of loans. In the third place, a municipality may borrow money because its citizens are too poor to pay the taxes that would be necessary if there were to be no borrowing. There may be good reasons for believing that in a few years the municipality will be rich, populous, and prosperous. Borrowing may make progress possible which would otherwise be out of the question. On the other hand, the power of borrowing might lead to extravagant expenditure because people are apt to think that their own municipality is especially likely to become rich, and because they are apt to say that even if it does not they can move away and leave others to pay. It is partly in order to prevent reckless borrowing that provincial control is maintained.

The powers of the municipalities to borrow money are carefully limited and are subject to strict supervision. We have seen that one reason for this supervision lies in the need to restrain extravagance. But there are other reasons too. It is very desirable to protect the people who lend money to municipalities. If the protection is adequate many people will be glad to lend their money and the municipalities will be able to borrow at low rates of interest. If, on the other hand, lenders were suspicious the rates of interest would be very high. To ensure that the municipalities will always be able to pay interest on the money which they borrow, and that they will be in a position to repay the principal sum when it falls due, the amount which they may borrow is limited by law. Except for schools or local improvements, a municipality may not borrow more than the equivalent of twenty per cent. of the value of the property within the municipality. The date for repayment must be fixed and

must not be more than fifty years from the date of borrowing. Unless the loan is to be repaid by instalments year by year, some revenue must be set aside in what is called a sinking fund. This fund is accumulated with annual payments from the municipality which are invested in safe securities. These investments and the interest which the municipality receives from them are equal to the amount which has to be paid when the loan falls due.

We find, therefore, that for its yearly expenditure a municipality requires first of all money with which to pay interest on its debts and to provide a sinking fund for their repayment. In the second place, it must provide the money which the school trustees of the district which corresponds to the municipality require for the maintenance of the schools. In the third place, it must provide for its own expenses, which include the salaries of its employees and the cost of the services which it keeps in operation. Some aid is received from the provincial government towards the cost of some of these services. The provincial government pays over to the municipalities an amount equal to one-third of the annual licence fees collected in respect of motor-vehicles other than motor-cycles. This money is placed in a special fund and is used for the construction and maintenance of public roads within the municipality concerned. As between the municipalities the money is divided in proportion to their populations. The provincial government also pays to the municipalities, in proportion to their populations, all the money received from the tax imposed on money deposited for betting at race meetings. Thirty-five per cent. of the net receipts of the Liquor Control Board of the province are paid over to the municipalities in proportion to their populations; but each municipality must pay over two-sevenths of what it receives to its Board of School Trustees.

In addition to the sums received from the provincial government, each municipality may impose certain taxes. It may prohibit certain occupations from being carried on without a licence from the municipality and may make a charge for the issue of the licence. The amount which may be charged for each type of licence is limited by the Municipal Act. For instance, a hawker, or peddler, may be charged fifty dollars for every six months; a bank may be charged four hundred dollars a year for one place of business and one hundred dollars for every additional place of business; a retail dealer must not be charged more than twenty dollars for every six months. We have seen that the municipality may obtain some revenue from the prices charged for services which it performs for the citizens, such as supplying them with water.

The great bulk of the revenue of the municipalities comes from taxes on land and on the improvements on it. Every year an assessment roll is prepared setting out, among other things, a description, in terms corresponding to those used for land registration, of each parcel of land in the municipality. Its area is stated, and so is the value of the land, the value of the improvements (including buildings) which have been made upon it, and the name of the owner or occupier. Each owner is informed of the assessment that has been made of his land and is given an opportunity of disputing it. Half the value of the improvements must be, and a greater proportion may be, exempted from taxation. The object of this exemption is to encourage people to build on the land which they own and to discourage them from holding vacant land. Land used for certain purposes—e.g., for the provision of hospitals, churches, or cemeteries—is completely exempted from taxation. After the necessary deductions have been made the value of the land and improvements available for taxation is known. If this total

is divided by one thousand we can ascertain what the return would be of a tax at the rate of one mill on the dollar. It is then easy to calculate how many mills on the dollar must be charged to yield the revenue which is required. A separate rate is calculated for each of three purposes: (*a*) interest and sinking fund; (*b*) school purposes, including a distinct item for interest and sinking funds when money has been borrowed for these purposes; (*c*) for general purposes, after account has been taken of the other sources of revenue which have already been described. The rate for general purposes must not exceed twenty mills.

There are many people in every municipality who do not own land. In order that those who can make some contribution to the municipal revenue should be taxed, the council of every municipality has been given power to pass a by-law imposing a poll (or head) tax not exceeding five dollars on every male person who resides within the boundaries of the municipality, or of the school district which corresponds to it. However, a great many people are exempted from this tax for one reason or another: (*a*) persons over sixty whose income does not exceed seven hundred dollars; (*b*) members of the active militia; (*c*) persons engaged in active naval or military service; (*d*) persons who in the past year have paid five dollars in taxes on land to the collector of any municipality in British Columbia; (*e*) men disabled in the Great War.

In addition to powers of taxation, district municipalities have the right to demand two days' labour on the roads from every male between the ages of twenty-one and sixty who resides in the municipality for at least thirty days. Persons whose land is assessed in the municipality are liable for one day's work on the roads for every five hundred dollars of property assessed. But this *statute labour* may be replaced

by a money payment or even completely abolished if the council of the municipality so decides.

The system which we have described is that provided for municipalities in general. In a few cases special provisions are applied, and in the case of Vancouver there is a charter consisting of a separate Act of the Legislature. The general principles, however, are the same in all cases. In some respects a municipality may modify the form of its government. In municipalities with a population of fifteen thousand or more the council may, by a majority of three-quarters, carry a by-law placing the management of the affairs of the municipality in the hands of a Board of Control consisting of the mayor, or reeve, and two Controllers to be elected. The Controllers are members of the Council for all purposes. The Board, if adopted, deals with the preparation of estimates of expenditure (which the Council may exceed only if two-thirds of its members agree), awards contracts for public works and supervises their execution, makes appointments and fixes salaries, dismisses employees. (A two-thirds vote of the Council may overrule the Board.)

The work of the municipalities is supervised by the Provincial Government, through an official called the Inspector of Municipalities, who is attached to the office of the Attorney-General. A certificate from the Inspector of Municipalities is conclusive evidence that by-laws have been properly passed or that debentures have been properly issued, and is therefore a protection to any one who lends money to a municipality. Regulations for the conduct of municipal affairs and the keeping of municipal accounts may be made by the Lieutenant-Governor in Council.

Small communities, consisting of not more than one thousand people, may apply for incorporation as a village municipality. Incorporation, as we have seen, gives a col-

lective existence which carries with it the power to sue and be sued, to own property, and to make contracts. A village municipality has a simpler form of government than a city or district municipality. Its affairs are managed by a board of three commissioners who are elected every two years. The board has power to deal with a very wide range of subjects, similar in principle to those with which a municipal council may deal. By-laws may be made concerning such matters as sanitation and public health, fire prevention, building regulations, public amusements, insect pests, the keeping of animals, the maintenance of highways. Taxation may be imposed in much the same way as in other municipalities, but borrowing, except for the expenses of the current year, is forbidden. When incorporation is authorized by the Lieutenant-Governor in Council these powers may be modified for the particular village municipality concerned. Some of them may be omitted or others, taken from the Municipal Act, may be added.

CHAPTER VI.—PART II.

TRADING CORPORATIONS.

Just as the people who live in the same district may be incorporated for the purposes of local government, so people who are engaged in the same business undertaking may wish to incorporate for the purpose of trade. They may wish to own property collectively and to carry on business without incurring any personal liabilities beyond their share of this common property. We shall see that, while very wide powers of incorporation have been created by legislation, it is only comparatively recently that this has been done.

From quite early times when people wished to carry on business in common they formed what was called a Partnership. A Partnership really consisted in a complicated contract by which each member undertook to contribute to the expenses of the venture and received in return the right to a share in the profits. The terms might be of almost any character. One partner might contribute his services, another his money, and there might be elaborate provisions as to how gains and losses were to be apportioned. In principle a partnership was merely one of the infinite number of agreements which people might make with one another. As it came to be important in the commercial life of the country rules arose which applied to every agreement which contained the essential features of a partnership, and people were assumed to have included certain things in the agreement even if they had not done so in so many words. These rules were collected and arranged in the English Partnership Act and some regulations were added in the public interest. The Partnership Act passed by our Provincial Legislature follows the English Act. Every member of a partnership is liable personally for all the debts of the part-

nership, though he may compel his fellow partners to contribute their shares if they are able to do so. And every member is responsible for the acts of his fellow members in the course of the business. A partnership is, therefore, a contract of a very intimate character, and the partners must have very great confidence in one another.

A partnership was therefore not suitable in cases in which a large number of people wished to unite their efforts, and the number who might enter into partnership with one another was limited by law. In the seventeenth and eighteenth centuries people were sometimes specially incorporated into large trading companies with a common fund or stock of capital. A company of this sort was provided with a governing body or council which conducted its affairs. If special statutory provision were made the members incurred no liability beyond their subscription to the joint stock. Joint-stock companies might also be formed by ordinary contract, but in this case there could be no provision limiting the liability of members and every member was liable for all the debts of the company. These joint-stock companies were forbidden by law at one time because it was thought that they led to excessive speculation.

The modern form of company became possible only when a method was invented by which the public could be warned that they were not dealing with an individual, or with partners of whose means they could judge, but with a company whose members were not personally liable for its debts. The device adopted in 1855 was to require the word *Limited* to be written after the name of a company whose members were not personally liable. Under our modern law any five or more persons may, by complying with certain conditions, form a company. Rules have been made to protect both the members and the public. With their details we are not concerned, but something must be said about the nature of a

company. It has, as we have seen, an existence distinct from that of its members. It may make contracts with them or bring actions against them. The money necessary for its work is provided by the members, who, in return for their subscription, receive what are called shares. Each share has a nominal value, called a par value, which is very usually \$100, but may be of any agreed amount; e.g., \$1. The total nominal capital of the company is fixed by agreement so that each share represents a definite fraction of the capital. Members are called shareholders and each has, ordinarily, a voice in the affairs of the company proportionate to the number of shares which he owns. The affairs of the company are managed by a board of directors elected by the shareholders, but certain matters require the assent of a majority of the shareholders. A shareholder may sell his shares and the purchaser will become a member of the company. The price of the share will bear no necessary relation to its nominal value. It represents simply a fraction of the ownership of the company. If the affairs of the company prosper the share will rise in value. If things go badly it will fall in value. The price for which it was originally sold must not be less than its par value (except in the case of mining companies), but it may be issued in return for services, or in payment for property, or may even be given away. Once the share has been paid for in full no holder incurs any further liability on it. If the company makes profits they are distributed equally as between the shares and the payments to the holders of the shares are called dividends. Many and complicated variations are possible in the organization of a company, but the framework which has been described will form its basis.

The device of incorporation has been extended to quite different types of organization. People may wish to take collective action for purposes which have nothing to do with

gain, and associations of this sort are authorized and regulated by several acts of the Provincial Legislature. For instance, "Five or more persons may form an incorporated society . . . to promote objects of a national, patriotic, religious, philanthropic, charitable, scientific, artistic, social, professional, agricultural, or sporting character, or any useful object." By carrying on their activities in this way the members escape any personal liability for the debts of the society.

BEST ANSWER TESTS.

(See the explanation on page 19 at the end of Chapter I.)

1. The greater part of the revenue of a typical city or district municipality comes from (a) the contributions made by the Provincial Government; (b) the municipal poll tax; (c) taxes on land; (d) taxes on buildings.

2. A municipal council cannot pass money by-laws (a) without the sanction of the Attorney-General; (b) if the aldermen's salaries are unpaid; (c) without a favourable vote of the property-owners; (d) without a favourable vote of the citizens.

3. The chief officer in a city municipality is called the (a) president; (b) mayor; (c) reeve; (d) controller.

4. Municipalities borrow money (a) because interest rates are low; (b) they have imposed all the taxation which they are allowed to impose; (c) to provide the public with safe investments; (d) to spread taxation evenly over a long period.

TRUE FALSE TESTS.

(See the explanation on page 20 at the end of Chapter I.)

1. A bonus is a loan from the Province to the municipality True. False.
2. A municipality is an institution first devised in the nineteenth century True. False.
3. Municipal councils have authority to make by-laws to regulate traffic on the streets True. False.
4. Every municipality is bound to maintain a police force True. False.
5. The inspector of municipalities appoints the mayors and the reeves True. False.

84 CITIZENSHIP IN BRITISH COLUMBIA.

6. The provincial government grants to each municipality a share of the liquor revenue True. False.
7. Every municipality is obliged to provide its citizens with light and water True. False.
8. The citizens of a municipality are liable personally for its debts True. False.
9. Municipalities may make grants to encourage private enterprises True. False.
10. Municipalities are compelled to provide money for the maintenance of schools True. False.
11. Partners are liable in full for the debts of the partnership True. False.
12. A limited liability company is a company which owes the government a definite sum of money True. False.

COMPLETION TESTS.

(See the explanation on page 20 at the end of Chapter I.)

The affairs of a municipality are managed by its....., which consists of from.....to.....members calledin a city municipality and of from.....to.....members called.....in a district municipality. At the head of the former is a....., at the head of the latter a..... Rules made by these bodies are called..... If they deal with the expenditure of money they are called..... They then require the consent of the....., who must agree by a.....majority of those who vote.

GENERAL QUESTIONS.

(See the explanation on page 21 at the end of Chapter I.)

1. Write a short description of any two medieval towns.
2. Find out something about City Managers and the work they do.
3. Have any measures for town planning been taken in the municipality in which you live? If so, what are the main objects?
4. For what purposes do the municipalities which make up Greater Vancouver co-operate? Would there be any advantages to be gained from amalgamating them all into one large municipality?
5. Has the municipality in which you live borrowed money? If so, for what purposes?

CHAPTER VII.
PROVINCIAL FINANCE.

We have seen that much of the work which the Provincial Government undertakes requires the expenditure of money. The mere making of laws would not do so; but government involves a great deal more than law-making. In the first place, the men and women who carry on the work of government must be paid. The salary of the Lieutenant-Governor is provided by the Parliament of Canada, but all the other people engaged in the government of the Province are paid by the Province. The Premier and seven of the other members of the Executive Council receive salaries and the members of the Legislative Assembly receive compensation, or, as it is called, an indemnity, for the time which they devote to the public service. The civil servants receive salaries, and as the work of government has become more elaborate, as more and more services have been undertaken collectively, the civil servants have become more and more numerous. Money is also required for the public works undertaken by the Province; that is, for the building of roads, bridges, dykes, railways, court-houses, and offices. Education has been one of the most costly branches of the work undertaken by the government, though much of the money has been spent indirectly, by grants to municipalities or to the University of British Columbia.

One of the most important duties of the Legislature is to make provision, year by year, for finding the money required for all these purposes. You will have learnt from your histories how the power of providing or refusing to provide money for the work of government was one of the chief means by which legislative bodies have, under the

British system of government, acquired control of the executive branch of the government.

The Provincial Legislature has very wide, but not unlimited, financial powers. It may borrow money as long as it can find lenders, and it can impose what are known as *direct* taxes. A tax is a contribution to the public funds which a citizen is compelled by law to make. It is said to be a direct tax when the citizen who pays it is not expected to be able to reimburse himself at the expense of some one else. For instance, if every man is compelled to pay a fixed sum, or what is called a poll or head tax, he pays a direct tax. He also pays a direct tax if he is compelled to pay a certain fraction of his income. These taxes are called direct because a man who is called on to pay them cannot ordinarily find any one whom he can oblige to pay all, or part of, the tax in his place. On the other hand, if a tax is imposed on all the sugar, or all the salt, or all the tobacco brought into the country, the person who brings these goods in pays the tax and then reimburses himself by increasing the price at which he is prepared to sell them. It is, therefore, the purchaser who bears the burden of taxes of this nature, and these taxes are called indirect taxes. In Canada, the Parliament of Canada is the only body which may impose indirect taxes. The distinction between direct and indirect taxes has been used as a convenient way of separating the taxing powers of the provinces from those of the Dominion, and as a way of avoiding the confusion which would result from two distinct taxes being imposed on the same things. As we shall see later, this latter object has not been completely achieved because both the Province and the Dominion may impose direct taxation, and both have been compelled to rely on income taxes to meet the heavy expenses occasioned by the late war. While the distinction between a direct and an indirect tax is very clear in the case of the examples

which we have considered, there are some taxes which may be either direct or indirect according to the method of collection which is used. It follows that the Province may impose these taxes if it chooses the method of collection which will make them direct taxes. For instance, a tax on gasoline for motor-cars is an indirect tax if it is imposed on the person who buys the gasoline in large quantities for resale, but a direct tax if it is imposed on a person who buys it in small quantities for his own use. In the same way, a tax on theatre tickets is an indirect tax if it is paid by the owner of the theatre and added to the price of the tickets, but a direct tax if it is paid by the person who buys the tickets for his own use. The Provincial Legislature has imposed both these taxes. They are, therefore, nominally collected from the people who use the gasoline or the theatre tickets. In practice, however, it would be impossible for the government to supply tax collectors to take the money in very small sums from these people. What is done is to make the dealer in gasoline and the owner of the theatre collect the taxes as agents for the government. Their position is not quite the same as if they paid the tax in the first instance and then reimbursed themselves through charging an increased price, because they pay the money to the government only after they themselves have received it.

In discussing the finances of the municipalities, we found that borrowing was often resorted to in order to equalize expenditure from year to year, or in order to pay for some work from which a substantial revenue was expected, or to postpone taxation which the people could not afford to pay. The Province, too, borrows money and for the same reasons. If the rate of interest at which the Province can borrow money is four per cent. an immediate payment of \$1,000,000 is equivalent to paying \$122,000 a year for ten years, or to paying \$54,000 a year for thirty years. If an exceptional

expenditure has to be made it may be convenient to spread it over a number of years so that the taxation will be the same from year to year. If a building is erected which will last for thirty years it may be best to pay for it as it is used, just as some people find it convenient to rent a house rather than to buy one. If the Province expects to develop rapidly and to increase in wealth and population it may seem good policy to carry out public works at once and pay for them with future taxation which, it is expected, will be furnished by the larger and wealthier population of the future. This third reason for borrowing is not so good as the other two because it is based on an opinion and not on a certainty. For a country, as for an individual, it may be wise to borrow money in certain circumstances and very foolish to do so in others. In both cases a prudent precaution is to make provision for fairly rapid repayment of borrowed money. In the case of public finance this is usually done, as in the example just considered, by providing an annual payment which will extinguish the debt in a definite number of years. A fund which is accumulated for the repayment of debt is called a sinking fund.

Each year, therefore, the Legislative Assembly has to provide revenue with which to pay for the year's expenditure, in which is included the interest and sinking fund for money previously borrowed. It faces its task with certain assets in hand, for the Province owns some property and derives some income from it. But the bulk of the revenue must be provided by taxation. We have seen that the Province makes certain grants to municipalities. The money for these must be included in the revenue raised by the Province. We have seen that in some cases particular taxes, such as those on motor-cars and on liquor, are shared with the municipalities. This intricate system has been devised because it was more convenient that certain taxes should

be uniform throughout the Province, while, in the period of depression during and after the late war, the municipalities could not secure adequate revenues from the taxation of land and improvements alone.

What taxes, then, does the Provincial Government impose? And on what grounds are they chosen? Some of the considerations which must be taken into account are obvious enough. Money must be obtained from the people without causing great suffering or great discontent. In order to avoid causing great discontent the people must be treated in a way which they consider fair. However, it is by no means easy for people to agree with one another in their test of fairness. It has sometimes been suggested that all should contribute equally. The objection to this course is that we are not all equally rich and that a payment which means very little to a rich man would be very heavy for a poor man. It has then been suggested that people should pay in proportion to the benefits which they receive from the work of government which is carried on with the money obtained by taxation. If this principle were applied a man with a great deal of property might reasonably be asked to pay more for its protection, by means of the enforcement of the laws, than a poor man would be required to pay. In cases in which we are free to accept a particular service or do without it the principle is fairly readily admitted. The fares on a government-owned railway, for instance, are the same for all. Works of local improvement, by which only a few benefit in any important degree, are often paid for by those few. The principle is more difficult of application in cases in which the acceptance of the service has been made compulsory. The reason for making it compulsory has been that every one was thought of as having a common interest in its being carried out. If so, why should not every one contribute towards paying for it, whether directly benefited or

not? The best example of a service of this sort is education. People who come to the Province late in life and who have no children receive no direct benefit from the existence of a public school system. A man with twenty children receives far greater benefits than a man with three. How should the taxation be apportioned? Our system is something of a compromise. The common interest in every one's receiving free and compulsory education from the age of seven to fifteen has been substantially admitted. Higher education, which is not compulsory, is provided for partly out of general taxation, in which case no account whatever is taken of direct benefits received by the taxpayer, partly by fees paid by those who receive the education. Finally, there are certain cases in which no reasonable person would attempt to apply the view that taxation should be apportioned in the same way as the benefits conferred by the expenditure. The expenditure on poor relief could not be defrayed by those who receive the relief; nor could asylums be financed entirely by those who are most likely to become their inmates. The most that could be done would be to provide against these expenses by the compulsory insurance of the people likely to be concerned. A third possible guide to fairness in taxation is the principle that people should contribute in proportion to their means or ability. For the purpose of this argument, the greater part of the public expenditure is treated as undertaken for the general advantage of a community in which the bonds that unite one individual to another are so close that each should be called on to help without any question being raised as to how much he, individually, gains from the common effort. It is, of course, admitted that some expenditures, like those for local improvements, may be undertaken almost entirely for the benefit of a few in cases in which they are able to choose whether they want the expenditure or not, and that in these cases it is right that

those who receive an exclusive benefit should pay for it. A fourth view on the subject of taxation is that it should be used, not merely to raise a revenue, but also to equalize in some degree the fortunes of different classes; that taxation should be used to make the rich poorer and the poor richer; that inequality of wealth is an evil which the government should seek to put right just as the bold highwayman of the legend used to rob the rich and give to the poor. The Legislative Assembly has, then, to choose its taxes so as not to offend the public, some of whom hold one and some another of these four views, and some of whom are by no means clear what their views are. We find that in practice there are some taxes which conform to one, some to another of the principles suggested, but that the weight of taxation generally has not been adjusted in accordance with any settled principle. Indeed, our taxes are so varied that it is not possible to say exactly what the real weight of taxation is in the case of individual citizens.

The general principle which should govern the expenditure of the Province is the same as that which should govern the expenditure of an individual. The least useful of the services paid for out of the revenue should be as advantageous as the most objectionable way of raising the revenue is disadvantageous, but no more so. The test which we should constantly apply is then twofold: (1.) What is our least needed expenditure? How much use is it to us? If we did not incur it, what taxation could we get rid of? How much harm does that taxation do? Is the use greater than the harm? If so, the expenditure is sound. (2.) What is the most desirable expenditure which we could make in addition to those already made? How much use would it be to us? What taxation would be necessary to provide the revenue for it? How much harm would that taxation do? Would

the use be greater than the harm? If not, the proposed expenditure would be unwise.

By way of illustration of the general principles discussed in this chapter let us consider a statement of the revenue and the expenditure of the Province. (*See page 93.*)

This statement requires some explanation. The figures in the left-hand column were calculated before the beginning of the financial year. They are estimates of probable expenditure and of probable revenue. We must look to the right-hand column to see whether events have justified expectations.

Both revenue and expenditure are divided according to departments. If details are wished for they can be ascertained by turning to the statement of the department concerned which is published as a part of the public accounts.

While all the departments receive some money, the main volume of the revenue comes from three of them. The Attorney-General's department administers many of the Acts which involve legal work. Some of these are revenue producers. Under the Game Act game licences are sold. Large profits are made from the Government Liquor Act. Fees are paid by joint-stock companies when they are incorporated. The owners of motor-vehicles have to buy licences. For many legal documents law stamps have to be bought from the government. The Department of Finance administers the most important of the provincial taxes. Examples are the Income and Personal Property Tax, the Succession duties, the Land Taxes, the Amusement Tickets Tax. It is through this department that the payments from the Dominion to the province are received. In the third place, the Department of Lands collects a substantial revenue from the sale of lands and from timber royalties.

First place among the expenditures of the province is taken by the interest on the public debt. Then each depart-

CHAPTER VII.

93

PROVINCE OF BRITISH COLUMBIA.

SUMMARIZED COMPARATIVE STATEMENT OF ESTIMATED AND ACTUAL
REVENUE AND EXPENDITURE FOR THE FISCAL YEAR
ENDED 31ST MARCH, 1925.

Estimated.	REVENUE.	Actual.
	CURRENT ACCOUNT :	
\$ 31,000 00	Department of Agriculture	\$ 30,949 85
3,884,000 00	„ the Attorney-General	3,871,255 14
46,000 00	„ Education	51,049 53
9,770,896 00	„ Finance	10,481,016 64
30,000 00	„ Fisheries	34,101 65
1,000 00	„ Labour	520 00
4,039,000 00	„ Lands	3,945,211 77
2,000 00	Legislation (Private Bills Fees)	1,545 00
162,150 00	Department of Mines	154,644 09
58,300 00	„ the Provincial Secretary	94,184 10
90,500 00	„ Public Works	82,440 00
64,400 00	„ Railways	76,440 09
<u>\$18,179,246 00</u>	Total Current Account	<u>\$18,823,357 86</u>
	CAPITAL ACCOUNT :	
	Refunds of Capital Expenditures :	
\$ 95,000 00	Charged to Income	\$ 485,888 26
85,000 00	Charged to Loans	72,265 04
<u>\$ 180,000 00</u>	Total Capital Account	<u>\$ 558,153 30</u>
<u>\$18,359,246 00</u>	Total Revenue	<u>\$19,381,511 16</u>
	EXPENDITURE.	
	CURRENT ACCOUNT :	
\$ 3,800,733,08	Public Debt	\$ 3,986,653 06
125,500 00	Legislation	126,840 44
14,680 00	Premier's Office	14,741 05
398,454 00	Department of Agriculture	470,941 60
1,649,745 00	„ the Attorney-General	1,634,072 63
3,358,737 00	„ Education	3,208,194 30
813,052 00	„ Finance	1,512,639 87
18,090 00	„ Fisheries	15,630 71
12,780 00	„ Industries	9,138 42
63,338 00	„ Labour	66,956 87
1,406,028 00	„ Lands	1,343,316 73
251,805 00	„ Mines	268,441 96
1,816,073 00	„ the Provincial Secretary	2,355,374 03
2,830,479 00	„ Public Works	2,966,837 19
139,700 00	„ Railways	240,086 85
<u>\$16,699,194 08</u>	Total Current Account	<u>\$18,219,865 71</u>
2,587,219 36	CAPITAL ACCOUNT (CHARGED TO INCOME)	3,008,050 55
<u>\$19,286,413 44</u>	Total Expenditure (charged to Income) ..	<u>\$21,227,916 26</u>

ment has some expenditure. It may do no more than pay the salaries of the men who carry on its work; it may have under its charge the administration of some important Act, which involves large expenditures. The Department of Education is the heaviest spender. Its expenses include the grant to the university and the contributions which the province makes to the local authorities to assist in the support of the schools. The expenditure of the department of public works includes the cost of upkeep of government buildings and grounds, and the maintenance and repair of roads and bridges.

The expenditure on new buildings is likely to be charged to capital account and paid out of loans. But the items which you see in the statement as capital account consist mainly of the money set aside each year for sinking funds and the interest credited to these funds from the investments made in past years. They include also a few items of special expenditure.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. A direct tax is (a) a tax paid in cash; (b) a tax imposed by the Provincial Government; (c) a tax that the person who pays it cannot manage to collect in turn from some one else; (d) a tax which is voted only for a year at a time.

2. A sinking fund is (a) money accumulated for the repayment of debts; (b) a sum of money which is steadily growing less; (c) the fund from which all government expenditure is made; (d) a fund for compensating ship-owners for losses at sea.

3. Taxes in British Columbia are imposed by (a) the Executive Council; (b) the Provincial Legislature; (c) the Lieutenant-Governor; (d) a popular vote.

4. The most important provincial taxes are administered by (a) the Department of Finance; (b) the Attorney-General's department; (c) the Department of Lands; (d) the Department of the Provincial Secretary.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. Members of the Legislative Assembly are unpaid.....True. False.
2. Only ministers of the Crown may propose in the
Legislative Assembly measures that involve the
expenditure of moneyTrue. False.
3. A poll tax is a tax imposed on womenTrue. False.
4. The Provincial tax on gasoline is a direct taxTrue. False.
5. The fares on government railways are varied in pro-
portion to the wealth of those who travelTrue. False.
6. In imposing taxation the popular ideas of fairness
must be taken into considerationTrue. False.

COMPLETION TESTS.

(See the explanation on page 20.)

A tax whose burden cannot be passed on by the person who pays it in the first instance to some one else is called a.....tax. This is the only kind of tax which the.....of Canada can impose. When money is borrowed.....must be paid every year. Money set aside with which to repay the loan when it falls due forms a..... The Succession duties are collected by the Department of.....; the fees for game licences by the..... department; and timber royalties by the.....department.

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. If the Province borrows money at 5 per cent., what sum must be contributed annually for interest and sinking fund to extinguish a loan of \$1,000,000 in twenty-five years?

2. What tax is most unpopular in your district? On what grounds is it disliked? What Provincial expenditure is considered least necessary?

3. Compare the *per capita* debts of the Canadian provinces. Do not forget to make allowance for the fact that at Confederation the Dominion took over greater debts from some provinces than it did from others (e.g., that part of B.C.'s debt the interest on which can be paid out of the Dominion subsidy in lieu of debt assumption should not be counted in a comparison of this sort).

4. Can you suggest why much less per head is spent on (a) education, (b) social or charitable purposes in Quebec than in British Columbia?

CHAPTER VIII.

THE COURTS OF LAW.

Now that we have seen what laws are, how they are made, and with what sort of subjects they deal, we must examine how they are applied. If a conflict of interests arises between two persons, what peaceful method is provided for its settlement? For instance, some one's dog has bitten you, and the dog's owner refuses to pay the damages which you claim, because he thinks that you were teasing the dog and deserved to be bitten. How can you and the owner be brought to agree? Who is to decide whether the dog did bite you, and whether you were teasing the dog? Who is to decide what the rules are which apply in such a case? Who is to say whether the owner of a dog is bound to compensate people whom the dog bites? And who is to say whether the fact that the dog had been provoked would make any difference? A tribunal, or body which deals with such questions as these, is called a court. The official who presides over it and who decides what is the law on the question at issue is called a judge.

Courts and judges have existed from a far earlier time than law-making bodies. The English Parliament was a court before it was a legislature. Even in very primitive societies disputes have been referred to a judge for settlement. In very early times the parties to the dispute might choose their own judge. At a later period the right to be a judge was very important because the judge was paid for his work. In feudal society there were as many courts as there were feudal lords. In England the supremacy of the King's courts over all others was steadily asserted, and the rules which the King's courts applied in settling disputes became, as we have seen, English Common Law. The judges,

as has been explained, followed as closely as possible the decisions of their predecessors. Even when they decided points which had not been decided before, they spoke as if they were applying rules, or laws, which had always existed, though there had been some doubt as to what they were. In settling a dispute, it is not always enough to say what the rule is by which it should be decided, because the parties to the dispute may not agree as to what actually took place between them. One may say one thing, and the other may say the opposite. A judge must decide in some way what the truth of the matter is. The practice arose in England of referring a question of this sort to what was known as a jury. A jury consisted of a body of men likely to know what the facts really were. Their duty was to inform the judge and they could be punished for perjury if they were discovered to have misinformed him. Gradually the nature of a jury changed so that to-day, instead of being persons with a direct knowledge of what happened, they must be persons with a completely open mind on the subject. The persons who do know something about the matters in dispute are called witnesses, and they must give their information to the jury in open court.

In any country the constitution of the courts, the method of appointing judges, and the rules which govern the proceedings in the courts are matters of the utmost importance. In Canada the Legislature of each province makes the laws which deal with the organization of provincial courts. These courts have to apply the laws made by the provinces, and also the laws made by the Parliament of Canada. They deal with both civil and criminal matters. In the former case their method of procedure is governed by laws made by the province; but in criminal matters the rules for procedure made by the Parliament of Canada must be followed. The judges in the more important courts are appointed by the

Governor-General of Canada; and their salaries are fixed and provided by the Parliament of Canada. The judges of the superior courts may not be removed from office except by the Governor-General acting on an address from the Canadian Parliament. The object of these provisions is to make the judges as independent as possible of any outside influence in the performance of duties which require the strictest impartiality.

For judicial purposes the Province of British Columbia is divided territorially into eight districts called counties. Each county has a County Court with a County Court Judge, and, if necessary, junior judges. These County Courts have jurisdiction over, or the right to deal with, a very wide range of subjects. They may ordinarily try any dispute in which not more than a certain sum of money is involved, and, if the parties agree, the amount may be exceeded. Some matters must be tried by the judge alone without a jury; and in other cases a jury is used only if one of the parties asks for it. Except in minor matters, it is possible for the party who loses his case in the County Court to appeal to the Court of Appeal. Rules for the procedure in the County Courts are made by the Lieutenant-Governor in Council.

The Supreme Court of British Columbia, which consists of a Chief Justice and five Puisne Justices, or judges, may try any case, civil or criminal, which arises in the Province. Each county forms a judicial district and, though any judge may act in any district, judges may be required to reside and usually discharge their duties in particular districts. Continuous sittings are held in Victoria and Vancouver. In the other "Assize Towns" sittings are held twice a year. In other places they may be held on dates fixed by the Lieutenant-Governor in Council. A trial takes place before a single judge. Rules of Court for carrying out the Act may be made by the Lieutenant-Governor in Council.

To hear appeals from the County Courts and from the Supreme Court, a Court of Appeal, consisting of a Chief Justice and four Puisne Justices, has been constituted. It holds four sittings in the year, two at Victoria and two at Vancouver. Rules for carrying the Act into effect may be made by the Lieutenant-Governor in Council.

Even from the Court of Appeal there may be a further appeal either to the Supreme Court of Canada, or to His Majesty in Council. Both these courts will be described later.*

Many criminal matters, as we shall see later, and some simple civil claims not exceeding one hundred dollars, may be dealt with by Police Magistrates, Stipendiary Magistrates, or two Justices of the Peace. The Justices of the Peace, however, must be specially authorized by the Lieutenant-Governor in Council before they can deal with civil cases. In civil cases the proceedings are more prompt and less expensive than in the County Court. The court held for these cases is called a Small Debts Court.

While the procedure is not the same in all these courts, and while in some matters it may be highly technical, a few general observations can be made. Before a dispute comes up for hearing the parties and their lawyers must have stated precisely the facts on which they base their claim, or their defence. If they are agreed as to the facts the only dispute between them is one as to the proper law to be applied. If, as is more probable, they are not in agreement as to the facts, the issue, or difference between them, will have been made clear by their statements. When the case comes before the court the party making the claim, who is called the plaintiff, must prove the truth of the statements which he has made, or rather of such of them as are necessary to make good his claim. He does so by producing

* See pages 122 and 123.

witnesses and examining them on oath in the court. The examination must be by question and answer, and the plaintiff, or his lawyer, who asks the questions, must not frame them in such a way as to suggest the answer which he expects. The party against whom the claim is made, or the defendant, may cross-examine the plaintiff's witnesses to bring out further information, or to show that they have not been telling the truth. The plaintiff may re-examine them to correct any misleading impressions. Then the defendant may call witnesses and ask them questions. The plaintiff may cross-examine, and in cross-examining the rule that a question which suggests its answer must not be asked no longer applies. The defendant may re-examine. The jury, if there is one, and otherwise the judge, is now in a position to find what the facts are. They may be of a nature which leaves no further room for dispute, but in other cases there may be some doubt as to what the law on the question is. It may seem strange that, as our law is based either on previous decisions (the Common Law), or on laws made by the Legislature (Statute Law), it should be possible for any such doubts to exist. But, in the first place, it may not be possible to find any previous case which is identical with the present dispute, and what the judge may have to decide is whether a former case resembles the present in all material respects. There may well be several former cases each of which bears some resemblance, but none complete resemblance, to the present case. The judge must decide whether the resemblance is, in any instance, sufficient. In the second place, a law passed by the Legislature may not be perfectly clear. Words may have been used in framing a law which have a wider meaning than they were intended to have. Let us consider an example. The Employment Agencies Act provides, among other things, that "no person, firm . . . shall collect . . . any fee or compensation for . . .

giving or furnishing information regarding employers seeking workers or workers seeking employers." Now, suppose for a moment that you were a judge and had to decide whether a newspaper which published advertisements of employers seeking domestic servants, and had charged a fee for so doing, had incurred the penalties imposed by the Act. What would you be inclined to decide? Would you say that the members of the Legislature had probably had Employment Agencies in mind, and not newspapers? Or would you say that the words must be strictly understood, and that the newspaper obviously is collecting a fee for giving information? Could you, perhaps, say that to collect a fee for giving information meant collecting it from the person to whom the information was given, and that the newspaper makes no such collection? The question of whether the Act does apply to newspapers has not, as far as the writer knows, come before the courts. It has been discussed here only as an illustration of the sort of difficulty which may confront a judge who is called on to say what a law means.

In Canada there is a third sort of question which may come before the courts. We have seen that laws on some classes of subject may be made exclusively by the Parliament of Canada, and on others exclusively by the Provincial Legislatures. What is to happen if one of these bodies goes through the form of making a law on one of the subjects which belongs to the exclusive competence of the other? In principle the measure would not be a law at all, would be void, would bind no one. But it would be published in the Statutes of the year just as a valid law would be. It would look like a valid law. If, however, any one relied on such a law and asked a court to apply it, the other party to the case could point out its invalidity. As not merely the parties to the particular case would be interested in the question of the validity of the act, but also the government which had

enacted it, notice must be given by any one who intends to question the validity of what appears to be a statute. The government may then, if it chooses, send a representative to argue that the body which passed the Act was within its competence in so doing. Any court may be called on to say whether what is in form an Act of the Provincial Legislature, or an Act of the Parliament of Canada, is really a valid statute. If the measure under consideration deals with a subject on which the body which framed it was not competent to legislate the court must disregard it. Such a measure is said to be *ultra vires* (beyond the powers) of the body which enacted it, and to be void for that reason. If part of a measure is within the powers of the legislature which enacted it and part beyond its powers, then, if the two parts can be separated, the former is valid and the latter void. If they cannot be separated, then both are void.

When we come to consider the relation of Canada to the Empire, we shall see that there is no court in the British Empire which can treat an Act of the Parliament of the United Kingdom as *ultra vires*, whatever may be the subject with which it deals. We shall also see, however, that this unlimited legislative power is not used indiscriminately, and that if questions of concern to Canada are dealt with the consent of the Canadian Parliament is first secured. We shall also see that by means of an address from the Parliament of Canada the enactment may be obtained of legislation which neither the Parliament of Canada nor the Legislature of any Province is legally competent to enact.

In Canada, as in the United Kingdom, every court must apply an Act of the legislature irrespectively of whether it considers the Act just or unjust, wise or foolish, good or bad. The only ground on which a court can refuse to apply an Act is that it is not an Act at all because of being *ultra vires* of the body which passed it. In considering what the powers

of the Provincial Legislature are, we must remember that they include certain specific powers, many of which are expressed in very wide terms, such as "Property and Civil Rights in the Province," and "Generally, all matters of a merely local or private nature in the Province." We must not be misled by these phrases. If a subject has been given expressly to the Parliament of Canada, a Provincial Legislature may not deal with it, even if it also falls within one of the subjects assigned to the Provincial Legislature. For instance, the Province may not legislate concerning Fisheries, though they are "property within the Province." But in the case of the general power given to the Parliament of Canada to "make laws for the Peace, Order, and Good Government of Canada," an Act, to be valid, must deal with subjects not specifically assigned to the Provincial Legislatures.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The judges of the more important courts are appointed by (a) the King; (b) the Governor-General; (c) the Lieutenant-Governor; (d) a popular vote.

2. A jury is (a) a body of witnesses; (b) a meeting of judges; (c) a kind of court; (d) a body of men summoned to decide issues of fact.

3. An Act is said to be *ultra vires* (a) if the body which enacted it had no right to do so; (b) if it interferes with some of the elementary rights of citizens; (c) if it is a bad law; (d) if it is disallowed by some higher authority.

4. Disputes as to what a law means are decided by (a) fighting; (b) reference to the body that made the law; (c) reference to a court of law; (d) reference to the Lieutenant-Governor in Council.

TRUE FALSE TESTS.

(See the explanation on page 20.)

- | | | |
|---|-------|--------|
| 1. Courts existed earlier than law-making bodies | True. | False. |
| 2. The constitution of the courts in British Columbia is
determined by the Legislature of the Province | True. | False. |

3. Judges may be removed from office by the Lieutenant-Governor in Council True. False.
4. Rules of Procedure are made by the judges True. False.
5. No Act of the Parliament of the United Kingdom can be *ultra vires* True. False.
6. No Act of the Parliament of Canada can be *ultra vires* True. False.
7. The right of the Province of British Columbia to pass an Act is determined by the Governor-General in Council True. False.
8. The Court of Appeal may hear appeals from the County Courts True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

In Canada laws dealing with property and civil rights in a province may be made by..... Laws concerning matters of a merely local or private nature in a province may be made by..... If it is necessary to decide with what matters a law really deals the decision is made by..... If the body which made the law had no right to make it the law is said to be..... and no effect can be given to it.

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. What do your histories tell you about the early history of juries?
2. Why do some people think that juries are no longer needed?
3. Can you find an example of an important law which has been declared invalid after having been treated as a real law for years? Was any inconvenience occasioned by such a decision?

CHAPTER IX.

THE OTHER PROVINCES—THE DOMINION AND
THE PROVINCES.

In the preceding chapters we have discussed the institutions and laws of the Province of British Columbia. There are eight other provinces in Canada, and the whole point of maintaining a division into provinces, each of which has the power of changing its own constitution, is to enable the people of each part of the country to adapt their laws and their constitution to the conditions in which they are situated. We must not, therefore, expect great similarity between the provinces, though there are a number of circumstances which tend to prevent very wide divergences. In the first place, the background for the laws and institutions in eight of the nine provinces of Canada is the same: the English Common Law and the British parliamentary system. The ninth province, Quebec, has adopted the parliamentary system as thoroughly as if it were indigenous, but has not adopted English Common Law. In the second place, all the provinces bear, in constitutional matters, the same relation to the Dominion. They have given up the same powers to it, and have retained the same sphere of action for themselves. In the third place, the development of a common national life has helped to make the provinces ready to follow the example set by one of them in regulating any special topic. In the fourth place, any national characteristics which may have been developed by Canadians generally, any qualities, that is, which are common to most Canadians and are not shared by others than Canadians, would normally show their influence in some similarity of action on important subjects by Canadians in different parts of the country.

Two of the provinces, Quebec and Nova Scotia, have Legislatures composed not of one but of two assemblies. The purpose of a bicameral, or two-chamber, legislature will be discussed and some of its inconveniences mentioned when we are dealing with the Parliament of Canada. In the case of each of these provinces the elected chamber corresponds roughly to the Legislative Assembly which has been described in an earlier chapter. The other chamber consists of appointed members. Members of the Executive Council may be taken from either chamber. In the case of provincial legislatures it is usually thought that the disadvantages of a second chamber outweigh the advantages. For one thing, the number of men who will make suitable members of legislative bodies and who can spare the time for the work is not unlimited, and a province may find it no easy task to supply members for the Federal Parliament and for its own provincial legislature as well.

The size of the Executive Council or Ministry is not the same in each province nor is the work of administration distributed among exactly the same departments. Quebec, for example, has a Minister of Roads, Manitoba a Minister of Telegraphs and Telephones, Nova Scotia and Prince Edward Island have each six ministers who are not in charge of administrative departments and who are, therefore, called ministers without portfolios.

The qualifications of voters for provincial elections are much the same in all the provinces, but in the Province of Quebec women are not allowed to vote.

The provinces of Canada are affected in very different degrees by the presence of racial minorities and by the difficult questions which arise as to the use of more than one language for educational and official purposes. In New Brunswick, Nova Scotia, and Ontario there are very important French-speaking minorities, and there are fairly

large French-speaking minorities in the prairie provinces. In Quebec there is an English-speaking minority, comprising a sixth of the population, whose importance in the economic life of the province is out of all proportion to its numbers. The difficulties which have arisen are due not merely to differences of language, but are also concerned with differences of religion, since most of the French-speaking Canadians are Catholic and a majority of the English-speaking Canadians Protestant.

As far as the language question goes, the solution that has been adopted by the British North America Act is the provision that "either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective Record and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec."* A similar provision is contained in the Manitoba Act of 1870,† under which Manitoba became a province of Canada. Notice that the other provinces are left free to decide what language or languages may be used in their legislatures or their courts; and that the Parliament of Canada is free to decide how far the employees in the various government services may be required to speak both languages.

While the recognition of the two languages for official purposes in Canada and the provinces of Quebec and Manitoba is a matter of fairness and justice, and a condition without which Canadian unity could not have been attained,

* B.N.A. Act, sec. 133.

† An Act of the Parliament of Canada confirmed by the British North America Act of 1871.

we must not underrate the expense and inconvenience which are occasioned. Acts of Parliament must be printed in both languages and both versions are authoritative for use in the courts. What is to happen if the two versions are not absolutely accurate translations of one another? Or if by a slip the word for "and" in one text is replaced by the word for "or" in the other? If both languages are used in the same case in the courts every word may have to be translated from one language to the other. The official reports which have to be printed in both languages are voluminous and the cost of the additional printing is serious.

A very important question connected with the differences of race, language, and religion appears in the case of the schools. In what language is instruction to be given? What religious teaching is to be given or permitted? Are any tests to be applied in selecting teachers? The British North America Act deals with Education mainly with regard to religious differences. Each province may make its own laws, but subject to the limitation that it may not "prejudicially affect any Right or Privilege with respect to Denominational Schools which any class of persons have by law in the Province at the Union."* If separate schools existed at the Union, or are established in any province by its legislature, then there is an Appeal from any "Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority"* to the Governor-General in Council. If the decision of the Governor-General in Council is not complied with, the Parliament of Canada may pass what are called remedial laws to ensure the proper application of the provisions of the British North America Act. You may find in your histories an account of the difficulties which arose in connection with the question of Denominational Schools in Manitoba.

* On both points see B.N.A. Act, sec. 93.

Nothing is said in the Act about the question of the language in which instruction is to be given in the schools, or as to whether separate schools are to be established for pupils of different languages. These matters are left to the provinces. They may be guided by their ideas of what is fair and reasonable, and have to decide what weight to give to the question of the additional expense of providing separate schools and to the inconvenience of perpetuating two languages within a province. They have also to consider that there is a probability that the way in which they treat a minority of one race will affect the way in which the province or provinces in which that race is in a majority will treat minorities. We, therefore, find that educational questions are peculiarly complicated in those provinces in which either French-speaking or English-speaking racial minorities exist.

Questions of a different character arise when the racial minorities are not French speaking or English speaking. Groups of people have come to Canada from foreign countries and these groups may wish to perpetuate their peculiarities of language and of civilization. How far should they be allowed to do so? Their position is not quite the same as that of French or English minorities, as they have come to Canada as their adopted country and must have known that they would be expected to identify themselves in language and in civilization with its people. Of course, it may be necessary to provide special schools, not in order to teach foreigners in their own languages, but in order to give them proper instruction in English by using their own language at first as the means for so doing. Quite a different question comes up when it is proposed to establish special schools for certain groups because other Canadians do not want their children to associate closely with them. This type of question may arise in those provinces which have the largest

foreign communities from countries with civilizations very different from our own. We have already seen that in British Columbia Chinese, Japanese, and Hindus are refused the right to vote even though they may be native-born Canadians.

The Dominion occupies a special position in relation to the natural resources in some of the provinces. When the Province of Manitoba was admitted to the Confederation in 1870 it was provided that all ungranted or waste lands in the province should be administered by the Dominion. And when Alberta and Saskatchewan were admitted in 1907 the Dominion Government reserved the right (which it had exercised in the territories before the formation of the provinces) of administering all Crown lands, mines, minerals, and royalties. The Province of British Columbia transferred certain lands to the Dominion in consideration of the Dominion securing the construction of the railway connecting British Columbia and the rest of Canada. These lands include: the railway belt, consisting of the public lands along the main line of the Canadian Pacific Railway to a width of twenty miles on each side of the line; and a block of three and one-half million acres in the Peace River country to make up for the lands in the railway belt which could not be given to the Dominion because they had already been disposed of. A large area on Vancouver Island was also given to the Dominion to aid in the construction of the Esquimalt and Nanaimo Railway.* These lands owned by the Dominion are granted as homesteads to settlers in quarter-sections of 160 acres.

The Dominion government has in some cases a certain control over what the provinces may do. It has "all the Powers necessary or proper for performing the Obligations of Canada or any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under treaties

* See Chapter XVI.

between the Empire and such Foreign Countries.”* A treaty with a foreign country* may provide that the subjects of that country are to receive special treatment in Canada or in some province of Canada. The province acting within its proper sphere of action may pass legislation which interferes with the rights which have been thus guaranteed. The section of the B.N.A. Act just quoted gives the Parliament and government of Canada power to ensure the performance of the treaty obligation, in spite of the action of the province.

In a general way the government of Canada has a right to prevent provincial legislation. When the Lieutenant-Governor of a province assents to a Bill in the King's name he is bound to send a copy to the Governor-General of Canada, and if the Governor-General, within one year of receiving the copy, on the advice of his Council, disallows the Act, the Act is annulled as from the date when the disallowance is communicated by the Lieutenant-Governor to the Provincial Legislature. This power of the Dominion government to annul provincial legislation within a year of its enactment has been very sparingly used. It may be used when there is a strong probability that the provincial legislation is void in any case as being beyond the powers of the province. It may also be used when some matter with which the Dominion ordinarily deals is at issue: for instance, immigration legislation may be passed by a province which conflicts with the general policy of the Dominion. The Dominion might pass its own legislation to overrule that of the province on this subject,† but it may be more convenient to disallow the provincial Act. You should think of this power of disallowance as used to secure the easy working of the general distribution of powers between provinces and Dominion, and not as adding a new principle to them.

* See Chapter XVI.

† B.N.A. Act, sec. 95.

The Lieutenant-Governor of a province may reserve a bill for the signification of the pleasure of the Governor-General. In this case the bill becomes law if the Governor-General on the advice of his ministers assents to it within a year of receiving a copy of it. If he does not assent within a year the measure lapses. It is not perfectly clear whether a Lieutenant-Governor should reserve bills on instructions from the Governor-General in Council or should act on his own initiative. In practice the power of disallowance has been found adequate to give the necessary control to the Dominion government, and no bills are reserved.

In addition to the areas organized in provinces, Canada comprises the Yukon Territory and three provisional districts: Franklin, Keewatin, and Mackenzie. These areas are administered by the Department of the Interior of the Dominion Government. The Parliament of Canada has power to establish new provinces in any of these territories and to make provision for the constitution and administration of any such provinces.* It may also alter the boundaries of any existing province, but it may do so only with the consent of the province concerned.* When the British North America Act of 1867 was passed it was anticipated that the Colony of Newfoundland would wish to enter the Canadian Confederation, and that colony, like Prince Edward Island and British Columbia, was to be admitted to the Confederation on an address from its Legislature and an address from the Parliament of Canada.

It is worth noticing that there is no method, other than an amendment of the British North America Act, by which a province could separate itself from the others and secede from the Dominion. Nor is there any way in which the people living in part of a province could set up a separate province for themselves without the consent of the province

* Both powers are confirmed by the British North America Act of 1871.

as a whole to the change. In short, our political arrangements are treated as permanent.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The Canadian provinces are united by similarity in (a) language; (b) civil law; (c) political institutions; (d) race.
2. There are two chambers in the legislatures of (a) Ontario and Manitoba; (b) New Brunswick and Prince Edward Island; (c) Alberta and Saskatchewan; (d) Nova Scotia and Quebec.
3. French and English are both official languages in (a) Alberta; (b) Manitoba; (c) Nova Scotia; (d) Saskatchewan.
4. The Dominion Government controls the natural resources of (a) Ontario; (b) Quebec; (c) Saskatchewan; (d) New Brunswick.
5. The Dominion Government may disallow the legislation of a province within (a) one, (b) two, (c) three, (d) four years.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. Either the French or the English language may be used in debates in the Parliament of CanadaTrue. False.
2. The Parliament of Canada decides whether French or English is to be taught in the schools in each provinceTrue. False.
3. The railway belt is a safety device which people wear when they travelTrue. False.
4. The Lieutenant-Governor of a province may reserve a provincial act for the signification of the pleasure of the Governor-GeneralTrue. False.
5. The Dominion Government may compel the province to respect the treaty obligations of the EmpireTrue. False.
6. The Territories of Canada are administered by the provinces which are nearest to themTrue. False.

COMPLETION TESTS.

(See the explanation on page 20.)

There are two legislative chambers in.....of the Canadian provinces. In the province of.....women are not allowed to

114 CITIZENSHIP IN BRITISH COLUMBIA.

vote. There are important French-speaking minorities in the province of....., the province of....., and the province of..... In the province of.....there is an English-speaking minority and a.....speaking majority. There are two official languages,and....., in the province of.....and the province of.....

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. Get from your histories an account of the Manitoba Schools Question.
2. Why did Lord Durham write in his report, "I found two nations warring in the bosom of a single state"?
3. Find out some instances of provincial legislation which has been disallowed by the Dominion Government.
4. Under what circumstances did the government of British Columbia grant three and one-half million acres in the Peace River country to the Dominion Government?
5. Why has Newfoundland never entered the Canadian Confederation?

CHAPTER X.

THE FRAMEWORK OF GOVERNMENT.

We have now to examine the government to which the provinces have entrusted the power to deal with subjects which are of common concern to the whole of Canada. This common government was constituted in 1867 by an Act of the Parliament of the United Kingdom, whose legislation, as we have seen, is legally valid throughout the whole of the British Empire. This Act, which embodies a large and important part of our constitutional law, and from which our legislative bodies derive their legislative power, is called the British North America Act. We must not think of it as having been framed for us by the Parliament of the United Kingdom. Its terms were the result of negotiations between Canadian statesmen who represented the different provinces. Legal force was given to these terms by embodying them in the Act. To meet new situations as they have arisen the Act has been amended from time to time, always, of course, by an Act of the Parliament of the United Kingdom. However, that parliament has not legislated on its own initiative, but on the request of the Parliament of Canada. We can say with confidence that any amendment for which the Canadian Parliament asked and to which no Province took objection would be enacted by the Parliament of the United Kingdom as a matter of course. It follows that, although nominally, in accordance with the terms of the British North America Act, the Parliament of Canada has less power of amending the Canadian constitution than a provincial Legislature has of amending the constitution of its province, in practice it has almost complete power of doing so.

The provinces decided that the Dominion which they were forming by their union should have a constitution similar

in principle to that of the United Kingdom. In examining the institutions which they adopted, we must keep this point in mind. Just as the power of making laws is exercised in the United Kingdom by the British Parliament, so in Canada it is exercised by the Canadian Parliament. Just as the British Parliament consists of the King, the House of Lords, and the House of Commons, the Canadian Parliament consists of "the King, an Upper House styled the Senate, and the House of Commons."* Just as in the United Kingdom the executive power is exercised in the King's name by his responsible ministers who are appointed members of the Privy Council, so in Canada the executive authority is vested in the King, and there is a "Council to aid and advise in the Government of Canada, to be styled the King's Privy Council for Canada."† We can go even further and say that just as in the United Kingdom there is no law expressly making the ministers responsible to Parliament, so also in Canada the responsibility of ministers is not a matter of strict law.

It is very important to understand that the King occupies, in principle, the same position in the government of Canada as he does in the government of the United Kingdom. In 1867 some public men would have liked to emphasize this point by adopting the name Kingdom of Canada, instead of Dominion of Canada. For a detailed description of the character of the Kingship in the United Kingdom, you must turn to your histories. You will find that the position of the King in the government has constantly changed, that it was not the same three hundred years ago as it was two hundred years ago, that it is not the same to-day as it was one hundred years ago. For our present purposes it will be simplest to think of all powers of government, legislative, executive, and judicial, as originally belonging to the King;

* B.N.A. Act, sec. 17.

† B.N.A. Act, sec. 11.

and then of these powers as each being transferred bit by bit to other persons or groups. The actual transfer of power has always been greater than its nominal transfer; just as in a business the owner may virtually retire in favour of his sons without his name disappearing from the name of the business. The King has ceased to exercise his powers personally, partly because, with the growth of the huge modern state of Great Britain and of the immense British Empire, it would be out of the question for one man to do more than the merest fraction of the work of government, partly because of the development of the system of responsible self-government of the people through elected representatives, which has already been explained. Of the development of these two principles—(1) specialization in the work of government, and (2) responsible government—you will find full accounts in your histories. Their full development has taken centuries and is perhaps not yet complete. At the present time we find that it has left the King with extremely wide nominal powers which are, in practice, exercised in his name by others: by Ministers appointed by the King but acceptable to Parliament; by Judges appointed by the King on the advice of his Ministers and holding office during good conduct; and by legislative bodies, of which the King is part, but whose acts are acquiesced in by him as a matter of course. The situation is essentially the same in Canada as in the United Kingdom, but in Canada it is partially obscured by the fact that the King cannot be present in person and, therefore, acts through representatives. In the Dominion government his representative is the Governor-General of Canada, appointed by him on the advice of his Ministers in the United Kingdom—advice which is given, however, only after the wishes of the Canadian Ministers have been taken into account. In the Province his representative is the Lieutenant-Governor, appointed by the

Governor-General on the advice of the Canadian Ministers. We often confuse matters by speaking indiscriminately of laws being enacted by the King or of their being enacted by the representative of the King. For instance, a statute of British Columbia normally begins, "His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows"; but the Constitution Act of that Province provides ". . . and the Lieutenant-Governor shall have power, by and with the advice and consent of the Legislative Assembly, to make laws. . . ."*

We must not think of the historical development by which the powers and functions of the King have been transferred to others as being disagreeable to the King or as having in any way diminished the greatness or importance of his position. Under modern conditions a King who exercised the powers which it was necessary that he should exercise in the Middle Ages would be an impossibility. The Kingship has changed as society has changed. Neither King nor society would wish to revert to medieval conditions. The British Empire is a unique social organization and the Kingship in the British Empire performs, as we shall see later, functions of unique importance.

The King, then, is a part of the Parliament of Canada, and the laws which it makes are expressed to be enacted by the King with the advice and consent of the Senate and House of Commons of Canada. But the King does not participate actively in the work of Parliament any more than he does in the work of the provincial governments which are carried on in his name, and the Acts of whose Legislatures are expressed to be enacted by him. He is represented in the one case by the Governor-General of Canada and in the other by the Lieutenant-Governor of the province. These repre-

* Section 13.

representatives may declare that they assent, in the King's name, to a measure presented to them by their respective legislative assemblies, or they may withhold the King's assent (a course which is, in practice, never followed), or they may reserve the measure for the signification of the King's pleasure. If such a reservation is made by the Governor-General of Canada the measure does not become a law unless and until the Governor-General signifies that it has received the assent of the King in Council (that is, of the King, acting on the advice of his responsible Ministers in the United Kingdom). This assent, to be effective, must be given within two years of the day on which the measure was first presented to the Governor-General. It is probable that this power of reserving a measure has now become a dead letter just as the power of withholding assent. It would be of use only in the case of a measure which appeared to conflict with important imperial interests, and in such a case its purpose could be better accomplished by a discussion between the responsible ministers in Canada and the United Kingdom before the measure was introduced into Parliament. We have seen that if a provincial measure is reserved by the Lieutenant-Governor of the province concerned for the signification of the King's (or the Governor-General's) pleasure it does not come into force unless and until it has received the assent of the Governor-General in Council. This assent, to be effective, must be given within one year.

Even when a measure has received the assent of the King's representative in the King's name and has become law it may be disallowed by the King in Council within two years of the receipt of a copy of it by the King's responsible ministers in the United Kingdom. With the steady development of Canadian autonomy this power has ceased to be exercised. A provincial act may be disallowed by the Governor-General in Council within one year of the receipt

of a copy. This power of disallowance is used in certain cases as a means by which the Canadian government can control provincial governments if they pass measures which appear to exceed their powers and which the courts would declare *ultra vires*, or if they pass measures which interfere with the general policy of Canada in relation, for instance, to immigration, or to dealings with foreign countries.*

The Upper House or Senate is an assembly composed of ninety-six members, who are appointed for life by the Governor-General on the advice of his responsible ministers. They are apportioned among the provinces in such a way that twenty-four come from each of the four main geographical divisions of Canada. Ontario and Quebec have twenty-four senators each, the four western provinces have six senators each, Nova Scotia and New Brunswick have ten each, and Prince Edward Island four. To exclude irresponsible people it is provided that a senator must be at least thirty years old and possess a moderate property qualification. He must be ordinarily resident in the province for which he is appointed.

The House of Commons, like the Legislative Assembly of a province, is an elected body composed of members elected from constituencies throughout the country. Each member represents those who were entitled to vote for the choice of a member in his constituency, whether they voted for him or not. All these possible voters are bound by his acts in Parliament. If they are dissatisfied with him, a majority of the electors can, at the next election, choose some one else as member. In this way the citizens can exercise some control over Parliament and its work.

The total number of members of the House of Commons is not permanently fixed. The Province of Quebec (as it existed before the extension of its boundaries in 1911) must

* See Chapter IX.

always have sixty-five members. Each other province receives a number of members proportionate to its population as ascertained at the last census. Each province has, therefore, as many members as its population divided by one sixty-fifth of the population of Quebec. To this rule there is an exception. It was enacted in 1915 (by an act amending the British North America Act) that a province should always have at least as many members in the House of Commons as it has Senators. The membership, based on the census of 1911, was 235, divided as followed: Ontario, 82; Quebec, 65; Nova Scotia, 16; New Brunswick, 11; Manitoba, 15; British Columbia, 13; Prince Edward Island, 4; Saskatchewan, 16; Alberta, 12; Yukon Territory, 1. The election of 1925 has been held under the Representation Act of 1924 which applies the results of the census of 1921. There are 245 members. Nova Scotia has 2 less than in the last parliament. Manitoba has 2 more, Saskatchewan 5 more, Alberta 4 more, and British Columbia 1 more. No reduction is made in the membership for a province unless the proportion of its population to that of the whole of Canada has diminished by one-twentieth. For instance, no reduction was made in the representation of Ontario because its population had only fallen from thirty-five per cent. to thirty-three and a third per cent. of the population of Canada and thirty-three and a third is more than nineteen-twentieths of thirty-five.

The operation of this Parliament, or legislative body, and the relation of the Senate and House of Commons to one another and to the Crown will be discussed in the next chapter. We must first say something about the executive power. "The Executive Government and Authority of and over Canada" is vested in the King.* The King, as we have seen, is represented by the Governor-General whom he, on proper advice, appoints. There is "a Council to aid and

* B.N.A. Act, sec. 9.

advise in the Government of Canada, to be styled the King's Privy Council for Canada."* Its members are chosen by the Governor-General and sworn in as Privy Councillors. They are removable by the Governor-General. We shall see that the real executive power is in the hands of those members of the Privy Council who are responsible Ministers of the Crown; since the Governor-General will always follow their advice. In the constitution of the United Kingdom the Privy Council was the origin from which the modern meeting of the more important responsible ministers, which is known as the Cabinet, sprang, and it is largely as a matter of historical continuity, emphasizing and making clearer the similarity in principle of the Canadian constitution and that of the United Kingdom, that the King's Privy Council for Canada is of importance. In subsequent chapters it will be of responsible ministers and of the Cabinet that we shall speak.

We have seen that the appointments of the judges for the Superior, District, and County Courts in each Province are made by the Governor-General, and that their salaries are provided by the Parliament of Canada. In addition the Canadian Parliament "may provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better Administration of the laws of Canada."† It is to the Court organized under this provision as the Supreme Court of Canada that appeals from the Court of Appeal of British Columbia may be taken, as well as to the King in Council in the United Kingdom. Not only may appeals be taken direct to the King in Council, but appeals may even be taken from decisions of the Supreme Court of Canada. In principle these appeals are based on the prerogative right of the King to dispense justice to his subjects in

* B.N.A. Act, sec. 11.

† B.N.A. Act, sec. 107.

cases in which the established courts have failed to do so. In England it was thought that this right was abused and it was abolished by an Act of Parliament in 1640, as far as cases arising in Great Britain were concerned. It continued to exist in the case of overseas dominions of the Crown and a committee of the King's Privy Council was organized to advise the King in cases of these appeals. The composition of this committee is a very important matter and there is a wide range of choice, for the Privy Council in the United Kingdom includes not only Cabinet Ministers and men who have been Cabinet Ministers, but also men who have been appointed as members of the Privy Council on other grounds. Members have been appointed from the self-governing Dominions and from India. A special committee is selected for each case so as to include members with special qualifications for considering it. But in general the composition of the Committee is not very different from that of the British House of Lords when it sits as a final court of appeal for the United Kingdom. It is sometimes thought that the existence of two courts, with nearly similar composition, as courts of final appeal for the whole Empire will ensure a certain similarity in the judicial interpretation of our law throughout the Empire. Some of the peculiarities of an appeal to the King in Council are survivals of the original nature of the appeal. The Council in principle *advises* the King how to decide. Therefore, dissenting opinions are not published. The Council is not strictly bound by its previous decisions as every other court is. It may refuse leave to appeal to it, and it will ordinarily do so in cases in which there is obviously no reasonable ground for bringing the appeal. No appeal is allowed from Canadian courts in criminal matters. In the case of Australia a law has been passed forbidding an appeal to the King in Council in matters concerning the interpretation of the Australian con-

stitution. A rule has been adopted by the Privy Council for excluding appeals brought without the leave of the court from whose decision the appeal is made.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The British North America Act was (a) passed by the Parliament of Canada; (b) established by a decree of the King; (c) enacted by the Parliament of the United Kingdom; (d) made law by an agreement among the provinces of Canada.

2. The Parliament of Canada consists of (a) the Governor-General, the Senate, and the House of Commons; (b) the Senate and the House of Commons; (c) the King, the Senate, and the House of Commons; (d) the King, the Privy Council, the Senate, and the House of Commons.

3. Members of the Senate are (a) elected for life; (b) elected for five years; (c) appointed for life; (d) appointed for five years.

4. Responsible Ministers are (a) appointed by the Governor-General; (b) elected by Parliament; (c) elected by the King's Privy Council for Canada; (d) elected by the people.

5. The Supreme Court of Canada is (a) a Committee of the King's Privy Council for Canada; (b) the King's Privy Council in the United Kingdom; (c) a court constituted by laws made by the Parliament of Canada; (d) another name for the Senate.

TRUE FALSE TESTS.

(See the explanation on page 20.)

- | | | |
|---|-------|--------|
| 1. The responsibility of ministers to Parliament is not a matter of strict law | True. | False. |
| 2. The Lieutenant-Governor of a province is the representative of the Governor-General of Canada | True. | False. |
| 3. The King's assent to legislation is never withheld.... | True. | False. |
| 4. Six senators are appointed from British Columbia.... | True. | False. |
| 5. Membership of the Senate is distributed among the provinces in proportion to their populations | True. | False. |
| 6. The Privy Council is a body which advises the Governor-General as to his private affairs | True. | False. |

7. Amendments to the British North America Act are passed by the British Parliament when asked for by all the provinces of Canada True. False.
8. The King no longer performs the work of government personally True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

The King's representative in Canada is the..... If he refers a bill passed by the Senate and the House of Commons for the signification of the King's pleasure, the bill is said to be..... But even if a bill receives the assent of the Governor-General and becomes.....it may be.....by the King in Council within.....years. In a province the King's representative is the..... He may refer a bill which has been passed by the Legislative Assembly to the....., in which case, unless it receives approval within....., it will not become law.

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. Compare the position of Queen Elizabeth and that of Queen Victoria.
2. What changes in the position of the Governor-General were made in 1877-78 and for what reasons?
3. On what occasions has the British North America Act been amended?
4. Find some examples of Canadian legislation which has been disallowed. What is the most recent example?
5. Write a short account of the development of the Cabinet in the United Kingdom.

CHAPTER XI.

THE WORKING OF THE DOMINION GOVERNMENT.

In its operation, as in its structure, the government of Canada is similar in principle to that of the United Kingdom, and it is not unlike that of the Province of British Columbia, which has been described in an earlier chapter. There is a permanent civil service divided into departments, each of which has at its head a responsible minister whose tenure of office depends on his continuing to enjoy the confidence of the Legislature. But, while the provincial legislature consisted of a single assembly, that of the Dominion comprises two: the Senate and the House of Commons. It is to the latter only that the ministers are responsible. It is true that without the concurrence of the Senate the orderly government of the country would not be possible; but the tradition has been well established that the Senate will not use its legal powers to make government impossible for ministers who enjoy the confidence of the assembly elected by the people. It may well be that the Senate will refuse to pass some measures that ministers, with the full support of the House of Commons, propose, but the Senate will not reject the measures essential to the routine government of the country.

The ministers of the Crown may be members of either the House of Commons or of the Senate, but no one may be, at the same time, a member of both assemblies. The most important ministers will naturally be chosen from members of the House of Commons, as it is on the continued support of a majority of that chamber that the ministers depend for their tenure of office. Just as in the case of the provincial government the ministers form a council, or, as it is called, a Cabinet, with the Premier, or Prime Minister, at their

head. They accept joint responsibility for any act of general policy or for any important legislation which they introduce. As in the case of the provincial government, this joint action is made possible by an elaborate party organization, both in Parliament and throughout the country. The members of the Legislature who belong to the party from which the Cabinet has been drawn meet in an assembly of their own called a Caucus, and may by their discussion and their votes exercise a very important influence on the Cabinet, which has to rely on their parliamentary votes for its maintenance in office.

It is as members of the King's Privy Council for Canada that the ministers exercise the important function of advising the Governor-General in the executive government of the country. As you probably know from experience, advice may mean anything, from the gentlest hint to a veiled command. The advice given by ministers to the Governor-General is advice which he must follow, and the ministers are, therefore, able in the Governor-General's name to exercise the rights or, as they are called, the prerogatives of the King. In exactly the same way, the advice given to the King in the United Kingdom, by his responsible ministers there, is advice which is invariably followed. Prerogative acts of the King may, therefore, be taken on the advice of one or another set of ministers. While it is clearly settled on what subjects the Parliament of Canada may make laws, it is by no means so clear on what matters the Canadian ministers can tender advice which must be accepted. As we shall see, this important question is being determined by the actual practice of the different governing bodies in the British Empire, which leads to the creation of a custom, tacit or express, by which a proper sphere of action is determined for each set of ministers. But the custom is something which can be changed, so that what is true of it to-day may not be true

to-morrow. Our institutions are characterized by flexibility rather than by an attempt at finality; and in this there is no danger if their operation is in the hands of reasonable men.

It has been said that the Governor-General must follow the advice of his ministers. What would happen if he refused to do so? His conduct would not be definitely illegal. There is no court of justice which would compel him to follow the advice of his ministers, or which would punish him for not doing so. The ministers who had given the advice would resign and the government of the country could be carried on only by appointing others. But, as has been explained in the case of the province, these others could carry on the work of government and find money for it only if they commanded a majority in the House of Commons. However, the ministry which resigned was supported by a majority and would, therefore, be in a position to prevent its successors from governing the country. The only hope of the new ministers would lie in advising the Governor-General to dissolve the House of Commons and hold a new election. If this election gave them a majority they could remain in power, and the action of the Governor-General in refusing to follow the advice of their predecessors would have been condoned by the votes of the people. This result would, however, be very unlikely. The people would recognize that the advice of the former ministers ought to have been followed. They would wish, above everything else, to affirm the principle upon which their system of government rests, and they would almost certainly return a majority hostile to the new ministers. We must say "probably," and "almost certainly," because complete certainty is impossible in human affairs. Now, when a rule of our constitution is observed, not because the courts would enforce it, but because it would be generally recognized as wrong not to follow it, we call the rule a con-

vention of the constitution. To break a convention is not illegal, but is unconstitutional. But do not think that for this reason the convention is the more likely to be broken. A rule of honour is often treated with greater respect than a law. If a convention is ever thought of as inferior to a law it is because the law can be defined with certainty or finality by a court, while a convention must remain in some degree a matter of opinion. A convention is the creature of practice and, if the practice changes, we do not say that the convention has been broken and its breach acquiesced in, but that the convention had been misunderstood and that it is now found to be different from what it had been thought to be before. One of the distinctive features of British methods of government is the great reliance which is placed on conventions. It is this feature which has made it possible for the methods of government to change slowly and almost imperceptibly while the legal form of government remains unaltered. Government based on conventions is, therefore, flexible. The danger lies in our not feeling confident that the conventions will be loyally followed. We may prefer precise legal rules because we distrust one another. But so long as we can place our trust in each other's fairness, honour, and common sense the more flexible government is safe, and offers a more satisfactory working system than we could get from clearer rules which would be very strictly, or *legalistically*, construed.

We have seen that the Cabinet, in order to secure a majority in an elected chamber, has had to have the support of a party organization throughout the country. Its relation to this organization, which you must remember is quite informal and not one of the institutions provided by the constitutional law of the land, is an interesting and intricate question. We may think of the Cabinet as composed of the leaders of the party which supports it. But the word

"leader" is vague. It may mean a person whose influence over others is so strong that they take their opinions from him and think of him as having greater knowledge, greater ability, greater wisdom, or perhaps even a more sensitive conscience than they themselves possess. It may, on the other hand, mean a person who has been chosen to represent others and to speak in their name in order to express opinions which originate with them. Now, a political leader may be either one of these things, or partly one and partly the other. It is never very easy to tell, at any rate in a man's lifetime, exactly what his relations are to those whose leader he appears to be. In order to please his "followers," he will probably speak of himself as a leader in the second sense, and say that his only aim is to carry out their will. In his own mind he may think of himself as a leader in the first sense, as inspiring his party with ideas which they willingly accept. The critic, and later the historian, may be prepared to describe him as partly inspiring and partly following his party. Perhaps, indeed, for the sake of clearness the distinction between the two sorts of leader has been made too emphatic; for a leader, in the first sense, can only lead within certain limits, and a leader, in the second sense, can be driven only within certain limits. People will not be led far from the pursuit of what they believe their real interests, nor can they be completely deceived as to what those interests are. On the other hand, a man of honour will not, either for the sake of remaining in office, or out of loyalty to old friends and colleagues, say things which he does not conscientiously believe or do things which he thinks wrong or very unwise. The relations, therefore, of party and leaders depend very greatly on the personalities involved, and on the circumstances of the hour. A party, to be successful in securing a majority in the House of Commons, must be nation-wide in its organization and the policies which it

supports must be such as will appeal to people in all parts of the country. But Canada is a huge country with very diversified interests, and the common interests are sufficiently clear to be part of the policy of any national party. The particular interests of one section of the country cannot serve as the basis for a party which is endeavouring to secure a majority in the House of Commons. Such a party must present a policy which is a working compromise between a number of particular interests. Under these conditions the differences between the policies of Canadian parties are not likely to be very great. It does not follow, however, that *party strife is not likely to be bitter and party loyalties strong*. One great question remains outstanding—that of what men are to occupy the great offices in the state. We must not forget that a party is, among other things, an organized attempt to put certain men into positions of power. From this aspect of our parties follows one curious feature of our government. Every Cabinet contains members from every part of the country and the people of a province are apt to think themselves ill-used if there is not some one from their province in the Cabinet. It is often thought that if there is no one in the Cabinet directly concerned in promoting the interests of a province those interests will be neglected, and, for instance, that public works in that province may not receive fair attention. This element of distrust in our national life is regrettable, though perhaps well founded.

The difficulties of organizing a successful national party may prove too great, and a government may have to depend for its majority on two distinct parties which when united form a majority. There is always a strong tendency for such a union to become very intimate in its character and to end in the formation of a single party.

As in the case of the provincial legislature, the leader of the opposition is a recognized institution. He is a responsible critic of the government. Any one can find fault, but the leader of the opposition must be prepared to form a government and put an end to the evils of which he complains. He attacks what he thinks foolish or unpopular acts, and suggests what he would do if he were in power. His responsibility lies in the fact that, if he is successful in gaining a majority at an election, he is called on to take office and will then be judged by the way in which his acts correspond to what he said while in opposition.

The Prime Minister, or Premier as he is perhaps more often called, is, more than any one else, in a position to speak on behalf of Canada, since he is both at the head of the executive government and in command of a majority in the elected portion of its legislature. But he is always in danger of his majority melting away if he does or says anything unacceptable to it. He is closely controlled by Parliament. One of the most important features of our government consists in the fact that no one person enjoys wide and uncontrolled powers.

We have seen that the members of the Senate are appointed by the Governor-General, who acts on the advice of his Cabinet. Therefore, any government which has been long enough in power will command a majority in the Senate. On the other hand, a government which comes into power, after the opposite party has been in office for a long time, will find itself with very few supporters in the Senate. This circumstance may be very inconvenient to it, for, although it need not resign on an adverse vote in the Senate and can rely on the necessary routine business being done, it may find itself unable to pass legislation which it considers of the utmost importance to the country. Of course, with the lapse of time, the government will, by filling vacancies with

its supporters, obtain a majority, but there is always a danger that it may itself be turned out of office by a fresh election. If a very important issue arose between the government and the Senate, the House of Commons might be dissolved. If the new election returned the government to power with a decisive majority the Senate would be very unlikely to oppose this expression of the opinion of the people. If, however, it did so, the House of Commons might ask for and might obtain an amendment of the British North America Act which would curtail the powers of the Senate. Short of this very drastic course there is a provision made in the British North America Act itself for an irreconcilable dispute between the House of Commons and the Senate. If the Governor-General, acting, of course, on advice, recommends that four or eight additional members—that is one or two from each of the four main geographical divisions of Canada—be added to the Senate, the King may so direct. The King, in such a case, would act on the advice of his responsible ministers in the United Kingdom, but their advice would probably *now* be given as a matter of course.*

While a government may find the opposition of the Senate irksome, the country at large may find it beneficial. This, at least, was the expectation of those who framed the British North America Act. It was thought that the Senate, largely composed of elderly men who were comfortably provided for as long as they might live, would be likely to oppose hasty and ill-considered action on the part of the more turbulent and ambitious members of the House of Commons, and perhaps even on the part of a gullible or excitable electorate. To-day, when the electorate is disinclined to think of itself as either gullible or excitable, when the House of Commons has shown itself restrained and cautious, and when the

* In 1873 a recommendation was made but the Crown refused to take action. In the early days of our constitutional government supervision of its working was considered necessary.

Senate has been filled with the nominees of political parties, many people are inclined to doubt the wisdom of retaining the Senate as one of our institutions. However, apart from the function which we have described, the Senate is not without its uses. There may be a division of labour between the two chambers, and measures for the full discussion of which there would be no time in the House of Commons may be amply dealt with in the Senate, while any hastily drafted legislation can be considered there. In the United Kingdom, with whose constitution ours was to be similar in principle, the powers of the Upper House have, by legislation,* been made definitely subordinate to those of the Lower House; and it has been suggested that a corresponding constitutional amendment might be desirable in the case of Canada. While almost all important countries in the world have second chambers, many people are reluctant to attempt to do without one altogether.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The Cabinet is (a) a meeting of the members of the Legislature who constitute a political party; (b) a name for the Prime Minister's desk; (c) a meeting of the responsible ministers; (d) another name for the King's Privy Council for Canada.

2. Ministers of the Crown are said to be responsible because (a) they are punished if they make mistakes; (b) they are elected by the House of Commons; (c) they must resign on an adverse vote in the House of Commons; (d) they are answerable legally if they overstep the law.

3. A constitutional convention is (a) a law; (b) a rule which is observed in practice; (c) an agreement among members of the House of Commons; (d) a bargain that is not illegal.

4. The Senate has (a) greater power than the House of Commons; (b) equal power with the House of Commons; (c) less power than the House of Commons; (d) no power at all.

* The Parliament Act, 1911. See your histories.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. The same man may not be a member both of House of Commons and Senate at the same timeTrue. False.
2. The same man may not be a member both of Cabinet and Senate at the same timeTrue. False.
3. The Governor-General must follow the advice of his responsible ministersTrue. False.
4. The King must follow the advice of his responsible ministersTrue. False.
5. A Caucus is a debate between the Premier and the leader of the oppositionTrue. False.
6. A Cabinet usually contains men from all parts of CanadaTrue. False.
7. If the Prime Minister is defeated in the Senate he may appoint enough senators to give him a majorityTrue. False.
8. If the House of Commons is dissolved a new Senate must be appointedTrue. False.

COMPLETION TESTS.

(See the explanation on page 20.)

The members of the Legislature who belong to the same party meet in a.....to discuss matters of policy. If the party is in power its leaders meet together in the.....because they are theof the Crown. Their chief is known as the..... The chief of the largest party which is not in power is called the..... If his party comes into power he becomes.....

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. In what sense was political leadership displayed by (1) Sir John A. Macdonald; (2) Sir Wilfrid Laurier?
2. In what sense was political leadership displayed by (1) Mr. Gladstone; (2) Lord Beaconsfield?
3. Trace the history of (1) the Conservative, (2) the Liberal Party in Canada.
4. Name the prominent party leaders of to-day in Canada.

THE PEOPLE OF



CANADA

VOTING BY TERRITORIAL CONSTITUENCIES
THE HOUSE OF COMMONS

THE KING'S PRIVY COUNCIL FOR CANADA
OF WHICH

THE CABINET

IS A COMMITTEE

MEMBERS OF
THE CABINET ARE
APPOINTED BY THE GOV.
GENL: FROM MEMBERS OF
THE HOUSE OF COMMONS
AND THE SENATE WHO BELONG
TO THE PARTY IN POWER IN THE
HOUSE OF COMMONS

When the Party from which the Cabinet Comes
Ceases to be in a Majority in the House of Commons the Min-
isters resign their Offices but remain members of the Privy Council

THE
KING

APPOINTS AND IS REPRESENTED BY

THE
GOVERNOR GENERAL
OF
CANADA

ON THE ADVICE OF THE PRIME MINISTER APPOINTS
THE MEMBERS OF THE SENATE FOR LIFE

THE SENATE
PARTY IN POWER IN COMMONS
PARTY IN OPPOSITION IN COMMONS

ELECTS THE MEMBERS OF

THE HOUSE OF COMMONS
MAJORITY OR PARTY IN POWER
MINORITY OR PARTIES IN OPPOSITION

THE
PARLIAMENT
OF
CANADA
KING
SENATE
AND
HOUSE
OF
COMMONS

CHAPTER XII.

COMMERCIAL LAW.

Many of the subjects with which the Parliament of Canada is expressly empowered to deal have to do with the organization and regulation of our commercial activities; though some of the laws which have to do with these activities are within the classes of subject allotted to the provinces, as, for instance, the Sale of Goods Act, or the Partnership Act. These exceptions from the general rule of uniform legislation on commercial matters can be attributed to the attachment of Quebec to French Civil Law and of the English-speaking provinces to the English Common Law.

It is the Parliament of Canada which alone can deal with the important subject of Money. To understand how fundamental the regulation of money is in our commercial and economic life, we must be quite clear as to the real nature of money. We all know, more or less, what is meant by money. It consists of pieces of metal stamped in a certain way, or of specially printed notes, which we can offer for things that we want to buy, with perfect confidence that they will be accepted, and which we can, therefore, accept with confidence in payment for things which we sell or of debts which are owed to us. Now, this confidence which we feel, as a matter of course, is really the result of the very careful regulation of our money by the Parliament of Canada. The Canadian government makes the coins and stamps them in a way that is not easy to imitate. It has made the imitation or counterfeiting of the coins a very serious crime. It has also printed notes which are difficult to imitate, and has made very strict rules as to the conditions under which banks (which we shall describe later) may issue notes. It has also made rules as to the sort of money which

citizens are bound to accept in payment of debts. Money of this sort is called Legal Tender. It does not include all the kinds of money which are ordinarily acceptable, but only those which must be accepted. In one sense Parliament can call what it pleases money, and can oblige people to accept it in payment of debts owed to them or for the goods which they sell. However, if people were obliged to accept in payment for their goods, or for their services, anything which they did not think that others would willingly accept from them, they would raise the prices of their goods and of their services. They could not, of course, raise the amount of debts which were owed to them, and if worthless things were made money they would lose heavily by having these debts paid. The government must, therefore, be careful that it does not designate as money anything that will not willingly be accepted. Before the late war almost all countries had designated gold as money and had defined their monetary unit, the dollar, or the pound sterling, as consisting of a certain weight of gold. When other things were made money great care was taken that they should be interchangeable with gold. On the one hand, a government would coin gold into gold coins without charge; on the other, it would, directly or indirectly, pay gold on demand in exchange for other forms of money. Paper money is usually, in form, a promise to pay gold on demand. However, to inspire confidence that it will exchange its notes for gold on demand, a government must not only promise to do so, but must have in its possession either a large quantity of gold, called a gold reserve, or other things which it could quickly dispose of, and obtain gold in exchange. During the war many governments printed far more notes than there was any prospect of their being able to redeem in gold, and, in order to protect their reserves from depletion, either refused to exchange the notes for gold on demand, or refused to allow gold to be removed from the

country. The result of these measures was that the notes came to be worth less and less, and prices consequently became higher and higher. Some countries, including Great Britain and Canada, have been able to resume the practice of paying gold in return for notes, or, as it is said, have returned to the gold standard.

Under certain circumstances money is issued by banks. A banker is a person, and a bank a firm or corporation, receiving money for safe-keeping and promising to return it on demand. In other words, a bank borrows money on certain terms. Because of the services which it renders by paying the money on demand, not only to the lender, whom we call a depositor, but to any one whom he may designate in an order addressed to the bank, which is called a cheque, the bank is usually able to borrow money (or receive deposits), either at no interest at all, or at a low rate. One side of the business of a bank consists in borrowing as much money as possible as cheaply as possible. To accomplish this purpose the bank must inspire as much confidence as possible in its ability to meet any obligations which it has undertaken or may undertake. To make certain that this confidence is not misplaced the Parliament of Canada has made laws regulating banking and providing for the supervision of banks. The other side of a bank's business consists in lending at as high a rate of interest as it can with as great safety as possible. It ordinarily secures from a borrower a formal promise to pay on a certain date, which is called a *promissory note* if it is his simple promise, and a *bill of exchange* if it is an order to pay drawn by him on some one who owes him money. Sometimes a man's promissory note may not inspire great confidence and he will then be required to get some one to endorse it for him; that is, to sign his name on the back of it and thereby accept the liability of paying it if the maker of the note does not. Sometimes a note may

be secured by the deposit with the bank of shares or bonds which it may sell if the note is not met at maturity. Such shares or bonds are called collateral security, a name which is explained by the fact that the note itself is considered as a primary security. From the nature of a bank's business it may be compelled to pay large sums at the shortest notice. Its solvency, therefore, will depend on its being able to rely on obtaining at equally short notice money with which it can replenish reserves on which a drain is being made. To accomplish this purpose it will lend only for short periods so that some of its loans are constantly falling due. It will lend only on securities on which it is confident that it could, if necessary, borrow from other banks. And it will keep some of its investments in government loans, for which there is always a good market. We now come to the important question of the form in which the bank will make its loan to a borrower. It might lend the money issued by the government. In this case it could lend to borrowers only what it borrowed from lender, *plus* the money invested by its own shareholders, and *less* the amount of any reserve which it might have to keep. Business on this footing would not be profitable because the difference between the rate of interest at which the bank borrows and the greater rate at which it lends is not sufficient. So, instead of lending money issued by the government, a bank lends its own promises to pay money to the bearer on demand. These promises are called bank-notes. On presentation to the bank in certain cities these notes must be paid in legal tender. In order to ensure the dependability of these notes, the Parliament of Canada has limited the amount which any bank may issue, and has made provision for a Redemption Fund to which all banks contribute and which is available for the payment of the notes of any bank which defaults. It has also provided that if a bank fails the holders of the notes are to be paid before

any of its other creditors. The shareholders of the bank are personally liable for an amount equal to the par value of the shares which they hold if the bank fails, and against these funds the note-holders would have first claim. There is, however, a second way in which a bank may lend its own promise to pay on demand. It may open an account in favour of the borrower for the sum which he borrows. In this case the borrower becomes a depositor. He may draw cheques against his account just like any other depositor. Lending in this form is not subject to any of the restrictions which are imposed on the issue of notes. It may be for any amount and the borrower has no special protection in the case of the failure of the bank, beyond, of course, the double liability of its shareholders. The special protection given to note-holders must be understood as a protection offered to the general public who are expected to receive, and who do receive, these notes on the same footing as the money issued by the government. But it is important to notice that both the issue of the notes and the opening of accounts in favour of borrowers furnish those borrowers with the means of making purchases—in the one case with money, in the other with something closely analogous to money. The issue of money in the form of notes is carefully controlled by the government, partly, as we have seen, to protect the public into whose hands the notes may come, but partly, also, in order to prevent an excessive increase in the quantity of money leading to a fall in its value and an increase in prices. The opening of an account may have precisely the same effect. It increases the purchasing power of the person in whose favour it is opened just as a loan of money would, and it may have the same effect on prices as an increase in the quantity of money would have. It is sometimes argued that, for these reasons, it should be subjected to some sort of government control. But, at present, it is not so regulated.

We have seen what an important part bills of exchange, promissory notes, and cheques (which are really a special variety of bill of exchange) play in banking. They play an equally important part in our ordinary commercial life. We can say that most immediate payments of importance are made by cheque, and most future payments of importance by bills of exchange. And from your arithmetic you are familiar with the way in which the holder of a bill of exchange can by discounting it with a bank obtain an immediate payment. All these documents are called negotiable instruments, because they can be transferred from the person entitled to payment to another by endorsement; or, if expressed to be payable to bearer, by mere delivery. The law which deals with them is made by the Parliament of Canada. It follows closely, but not absolutely, the English Bills of Exchange Act, which is based on English Common Law.

Among the other topics of commercial law dealt with by the Parliament of Canada is that of Bankruptcy and Insolvency. A trader through dishonesty, or through bad judgment, or through misfortune may come to be in a position in which he is unable to pay his debts in full. Such a situation gives rise to very complicated conflicts of interests and raises some difficult questions. Should a trader incur some special penalty if he continues to carry on business and to contract debts after he knows that he is unlikely to be able to pay them in full? If he is unable to pay all his debts in full, should he be free to pay them in the order in which he pleases or should he be obliged to pay them equally? Or should some debts be given a preference over others? If a trader is on the verge of insolvency, should he be allowed to make gifts to his wife or family, or should he be allowed to remit, or discount heavily, debts which are due to him? Laws have been made to settle these difficult questions and

to make it possible for the creditors of an insolvent trader to have his affairs taken over and administered by an officer appointed by the court. When the available assets have been distributed among the creditors further questions arise if the creditors have not received all that was due them. Should the debtor be allowed to obtain employment, or carry on business, free from debt, or should anything that he may earn or acquire be handed over to the creditors? It has been made possible for a debtor to be discharged if he has conducted himself honestly. If, however, he has misconducted himself, his discharge may be refused, and he will then be liable to penalties if he does not notify people with whom he deals that he is an undischarged bankrupt. The object of this rule is to warn people of the risk which they take in giving credit to some one who is already in debt.

It is the Parliament of Canada which makes laws concerning the rights of inventors in the exclusive use of their inventions. These rights are protected by what is called a Patent. A system of industrial monopoly licences was introduced into England from Italy in 1561. For some time afterwards it was a recognized prerogative right of the Crown to grant a monopoly of manufacture to the inventor of some new process of manufacture. In 1624 the subject was dealt with by a statute which extended the monopoly to fourteen years. In Canada the rights of the inventor are protected for a period of eighteen years. The Patent Office to which applications are made is a part of the Department of Agriculture.

The Parliament of Canada also deals with the rights of the producers of dramatic, literary, artistic, or musical works. The author is protected by receiving what is called a Copyright: the exclusive right of reproducing the work. This is a right which he may sell. It lasts for the period of his life and for fifty years after his death. If the owner

of a copyright does not exercise it so as to meet the reasonable requirements of the public, a publisher may obtain a licence to publish, subject to his paying a royalty to the author. If the author is a citizen of Canada, or of a country which is not a member of the International Copyright Convention, a publisher may obtain a licence to publish if the work is not actually published in Canada. This rule is made for the benefit of Canadian publishers and not to protect Canadian authors. To understand why it has been made we must consider the International Convention and the position adopted by the United States.

In 1886 the leading countries of the world agreed, in a Convention made at Bern, to accord reciprocal protection to each other's authors. The British Empire was a party to this agreement. The United States was not. The American requirement that a book must be manufactured in the United States in order to receive protection would not have been in accordance with the agreement. The aim of the Canadian rule is to give to the countries which are members of the Convention (including the other parts of the British Empire) the same protection which they extend to Canadians; but to treat American authors as the United States treats Canadian authors. The position of Canadian authors remained to be dealt with. As between Canadian author and Canadian publisher the advantage was given to the latter. If a Canadian author publishes a book abroad and not in Canada, a Canadian publisher, on paying a proper royalty to the author, may obtain a licence to publish the book in Canada.

If the law relating to copyright is intricate, the reason is that many conflicting interests are involved. The public, the author, and the publisher must all be considered. It is probable that our law on this topic is not in its final form.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. Legal Tender is (a) gold; (b) money which is currently accepted; (c) all money except bank-notes; (d) money which a creditor must accept in payment of a debt.

2. A banker makes his profit (a) out of the stamps on cheques; (b) by borrowing at a low rate of interest and lending greater sums at a higher rate of interest; (c) by charging interest on money left with him for safe-keeping; (d) from a grant made by the government.

3. A copyright is (a) the right to publish a book; (b) a correct copy of a book; (c) the right to make a copy of a book; (d) the right of the author of a book to be paid for writing it.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. A person who endorses a note is bound to pay if the person who has signed it defaults True. False.
2. A bank-note is the promise of a bank to pay in legal tender on demand True. False.
3. If a bank fails the note-holders are paid before other creditors True. False.
4. Banks may issue as many notes as they please True. False.
5. A negotiable instrument is a kind of fiddle True. False.
6. A gold reserve is an Indian reserve on which there is a gold-mine True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

Money that we are bound to accept in payment of debts is called In making large payments the only metal that we can compel our creditors to accept is Promises to pay this metal may be used as money. When they are the promises of banks they are called If they are the promises of the Government of Canada they are called The former are secured by a fund called the, to which all the banks contribute. They are also a first charge on the assets of the bank that issues them, and on the, to which the shareholders of a bank are subject. To make sure that it can meet its promises on demand a government usually keeps a

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. When was the Bank of England founded, and why?
2. The Canadian banking system is said to resemble the Scotch. What reasons account for the resemblance?
3. When was the dollar adopted as a unit of currency in Canada, and for what reasons?
4. How many Canadian banks can you name? Do you know anything about their history and their resources?

CHAPTER XIII.

CRIMINAL LAW.

It was mentioned in an earlier chapter that a large part of our law has to do with the prevention and punishment of acts which are regarded as being detrimental to society as a whole. The framing of this part of our law has been confided almost entirely* to the Parliament of Canada. At the time of Confederation the criminal law of the country consisted in the main of English Common Law. In 1892 a code, or systematic statement of the law, was enacted. It was based on a draft prepared for use in England which aimed at stating the Common Law with some improvements. It does not entirely supersede the Common Law, which may still apply in cases not covered by the code.

A crime is an act that has been forbidden by law and for which a penalty is exacted because it is considered desirable in the public interest to repress it. In early society many acts which are now crimes were treated as private wrongs and gave the injured party a right to compensation. At present our criminal law is a compromise between two tendencies: to leave as much liberty as possible to individuals and to rely as far as possible on their consciences and sense of fairness and honour; and to protect society from injurious acts of whatever nature. The first tendency has led to many offences, which consisted merely in expressions of belief or opinion, being no longer punishable; while the second has led to many dishonest acts, which would formerly have gone unpunished, being made criminal.

Acts are made crimes because the legislature thinks them bad. Nine times out of ten in a country with responsible

* The provinces, however, may impose penalties for the breach of their laws. See page 158.

government the general opinion of the public is in accord with that of the government. But there may be individuals who disagree violently, and who do things which are criminal because they sincerely think them to be good. Cases of this sort are particularly frequent in relation to political offences, or offences against the security of the state. In every country rebellion is a crime, but the individual rebel may be a conscientious person. On the other hand, many things which we think of as very wicked are not crimes at all. For instance, it would not be a crime to refuse to help a drowning man. Different crimes, and, indeed, the same crime committed in different circumstances, involve different degrees of guilt, because the people who commit them are animated by various motives. Consider, first of all, the case of a man who deliberately breaks a law because he thinks it his duty to do so; for instance, a conscientious objector to military service. Then think of a person who breaks a law because he thinks it a vexatious interference with his personal liberty and does not see that any one but himself can be injured by what he does; for example, a person who drinks beer in a prohibition area. Then take the case of a person who commits murder or theft knowing that what he is doing is wrong and wicked. Even in this last case there may be different degrees of guilt. There may have been great temptation or great provocation.

Now, when acts are forbidden, it is usual to impose penalties which are expected to make people avoid them. But the punishment for a crime is often thought of as an act of just retribution or retaliation. This view is somewhat discredited at present because it assumes the complete responsibility of the criminal for the crime, although the criminal may be some one who has been badly brought up, or subjected to unusual temptation, or who has inherited a bad disposition. We are not prepared to make this assump-

tion of complete responsibility except in extreme cases, but possibly in these cases the idea of retribution is still uppermost in the mind of the public. Punishments may be used to deter people from committing the crimes for which they are imposed. Some people are very confident of the possibility of coercing others by force; while others do not think that much can be accomplished in this way. Which view is right depends on the people with whom we are dealing. In many things ordinary people are likely to be very strongly influenced by the prospect of punishment. But criminals are not ordinary people. And the circumstances in which they commit crimes are not ordinary circumstances. A punishment is never a matter of certainty as there is always a chance that the guilty party will not be caught. People are very different in the way in which they regard a risk, and very few of us give it its exact mathematical value. At one time, however, these differences of outlook were not taken into account and it was thought that the whole skill in fixing penalties under the criminal law lay in making them just disagreeable enough for the commission of the crime to bring more pain than pleasure to the criminal. Any greater punishment was thought of as cruel, because it was unnecessary, and any less punishment cruel too, because it would normally be wasted. The logical application of this principle would lead to some curious results: the punishment should be greater the greater the temptation, and therefore greatest of all in the case of a crime committed from conscientious motives; the punishment should be greater the smaller the chance of detection; there should be no punishment in the case of an incurable wrong-doer, because no punishment will keep him from crime. This way of thinking, which supposed that people calculate carefully whether a particular act will bring them more pleasure than pain, has gone out of fashion, as we have come to think of crimes as resulting from some

badness of character, and of a character as having been made bad by evil surroundings and being capable of being made good by suitable surroundings. This view leads us to the idea that a crime should be followed not by punishment, but by reformation. Some very remarkable results have followed from the attempt to educate offenders. But this theory does not fit the case of the incorrigible offender, if there be such a person. And, in his case, we can only attempt some sort of restraint from future wrong-doing.

These various ideas as to the function of punishment should not be thought of as completely excluding one another. Our practice, at any rate, takes account of them all. We still punish in some cases from the old idea of retribution, though, of course, punishment of this sort is expected to act also as a deterrent to others. In other cases we simply attempt to prevent offences by using the minimum penalty which will do so, for there are many minor offences, involving no great moral depravity, in committing which people are likely to balance the risk of being caught against the *advantage to be gained*. *An example is to be found in making a false declaration to the Customs authorities when returning from a holiday.* The people who do these things probably need reformation, and may not be incorrigible, but no practicable method of reforming them has been discovered. Then in other cases reformation is attempted, especially when the offender has not had good opportunities in early life. Finally, very bad criminals are sent to prison for long terms with no serious expectation that they will be good citizens when they come out. As the task of finding the appropriate punishment in each case is one of great difficulty, wide discretionary powers are usually left to the judge. There is an exception in the case of murder, in which the sentence must be death. But the right of the King to pardon offenders or reduce

sentences may be exercised by the Governor-General on the advice of his responsible ministers.

We must think of our criminal law as a set of rules defining offences and fixing the limits within which the punishment for each must fall. Two general principles should be noticed: (1) ignorance of the law is no excuse for wrong-doing, and we are all assumed to know what the law is; (2) there is no wrong-doing unless there is an intention to do an act which is by definition a crime. For example, if some one kills a man, it would be no excuse for him to say that the man was a trespasser and he thought it lawful to kill trespassers, but it would be an excuse if he could say that he was shooting at what he believed to be a deer though it was in fact a man. The first of these two principles implies that we must know the law at our peril. This doctrine is not so harsh as it sounds, because, as we have seen, most things which are criminal are also evil.

Perhaps the most important part of our criminal law, and the part which has done most to win for English criminal law its high repute, is that which deals with the procedure for deciding whether some one accused of a crime is guilty or innocent. In countries in which the authority of the government and the respect for law have been less firmly established than they are with us to-day, the aim of the criminal procedure has had to be to convict all the guilty people and as few innocent people as possible. And we must remember that if our country came to be in such a condition the procedure of our criminal law would become much harsher than it is to-day. It is because we are a law-abiding community that we can be generous towards those accused of crimes, and aim at convicting as many guilty people as possible consistently with convicting none who are innocent. And, in turn, it is largely because we treat those accused of

crimes with the utmost fairness that our law commands general respect.

A person accused of a crime may be brought before a magistrate in one of three ways. The first is by summons. A summons is an order from the magistrate requiring the accused to appear. The second is on a warrant. A warrant is an order for the arrest of the accused. It authorizes the person who executes it to use necessary force to apprehend the accused and bring him before the court. It is used when it is not thought that a summons would be sufficient. The third way is by arrest without a warrant. A peace officer (and this term includes mayors, reeves, sheriffs, and others as well as the ordinary policeman) may arrest without a warrant any one whom he finds committing an offence, or any one whom he has reason to suspect of having committed a serious offence, that he believes to have been committed. Any citizen is justified in arresting any one whom he finds committing any offence by night, or whom he suspects of committing a serious offence which has actually been committed. He is also justified in helping a peace officer when called upon to do so. The warrant or summons will ordinarily be issued by a magistrate on his receiving a complaint on oath, from some person, who is said to "lay an information."

A person who has been arrested will ordinarily be allowed his liberty again when proper security, called bail, has been given, that he will appear for trial when called on. In serious cases bail may be refused. It is given either by the accused or by a friend. The Bill of Rights, as you have learnt from your histories, provided that the bail must not be excessive. What is a reasonable amount will depend on the wealth of the accused and on the probability of his running away.

Minor matters may be disposed of summarily before a justice. In rather more serious cases a magistrate may pro-

ceed summarily, but in some cases he must give the accused the option of a trial by jury. All except the most serious crimes may be dealt with by a speedy trial in the County Court if the accused consents. Such a trial is by a judge without a jury. Most of the general principles which we shall discuss are the same for all these forms of trial. But we shall only describe in detail the trial for a serious offence in the Supreme Court before a jury.

In one of the three ways described above, the accused is brought before a magistrate for what is called a preliminary hearing. The prosecution is usually conducted by a lawyer acting on behalf of the King. He calls as witnesses any persons who have, or are believed to have, some knowledge about the facts of the case, and obtains their information from them by a series of questions. As it is important that the witnesses should tell their own story and not one that is put in their mouths by the prosecution, the questions must not be framed so as to suggest the answer which is expected. The witnesses, on being called, must take an oath, or make an affirmation, that they will tell the truth, the whole truth, and nothing but the truth. To give false evidence in a legal proceeding constitutes the very serious crime of perjury. When each witness has answered the questions of the prosecution he may be questioned by the accused or his lawyer. This questioning is called cross-examination and may be of a very severe character. Its object is to bring out points which have been overlooked; to show that the witness has not been accurate, either by making him contradict himself, or by proving that he has told a different story on some other occasion; or even to show that he is not worthy of belief. As there is no danger of a witness acquiescing too readily in conclusions of this nature there is no rule against asking questions which suggest an answer. After the cross-examination the prosecution may re-examine in order to correct any

false impressions, but not in a way which raises new issues. The magistrate or justice when he has heard the evidence may, if he thinks it insufficient, discharge the accused. He may, however, state the charge or accusation to the accused, offer to read over the evidence to him (for questions and answers have been taken down in shorthand), and ask him if he has anything to say. In so doing the magistrate must warn the accused that anything he may say will be taken down for use, if need be, as evidence against him, and must explain that the accused has nothing to hope or fear from any promise or threat which may have been used to induce him to admit his guilt. After the accused has made any statement he chooses to make, he or his lawyer may call witnesses either to contradict the evidence of those called by the prosecution, or to prove further facts which will exonerate the accused. Each of these witnesses may be cross-examined by the prosecution and re-examined by the accused. Finally, the justice either discharges the accused, or, if he thinks that a sufficient case has been made out, commits him for trial. In the latter event he may bind over some one to prosecute, and the witnesses to appear and give evidence. The accused may be allowed his liberty on bail until the trial takes place.

The depositions of the witnesses which have been recorded are useful for several purposes: (1) They can be used to check the evidence given at the trial, when it is held; (2) they can be used if the witness dies before the date of the trial; (3) they give some information to the judge, who, as we shall see, has to explain the case to the grand jury; (4) they inform the accused of the exact case which he has to meet.

The next step in the proceedings is taken before the Grand Jury. The Grand Jury is a very old institution and our records of its use go back to the Assize of Clarendon in 1166.

Its original purpose was to give the King authoritative information on various topics, among which was the list of crimes committed in the district and of the persons suspected. The Grand Jury is now employed to pronounce on the reasonableness of the charges preferred by what is called a bill of indictment laid before it by the judge on the basis of the preliminary hearing. Offences which may be dealt with in this way, and therefore the more serious offences, are said to be indictable. The judge explains to the Grand Jury the charge and the law on the subject. He says what facts which must be established to substantiate the charge. The Grand Jury retires and considers the charge. It calls before it, and hears on oath, the witnesses for the prosecution, but not those for the defence. It may then either "ignore" the bill, in which case the accused is discharged, or "find a true bill," in which case the bill of indictment becomes an indictment and the trial is proceeded with. Although criminal procedure is governed by laws made by the Dominion Parliament, the law relating to the organization and constitution of the courts concerned is made by the Provincial Legislature. The summoning of juries is part of the organization of the court. In British Columbia thirteen jurors must be summoned for a Grand Jury, and seven must concur in order to find a true bill. In Saskatchewan and Alberta the Grand Jury is not used.

The prisoner is now called to the bar of the court, the indictment read to him, and he is asked whether he is guilty or not. If he pleads "Not guilty" there must be a trial before a Petit Jury, composed of twelve men. Women have been recently allowed to sit on juries, but they are not forced to do so if they object. To ensure fairness both the prisoner and the prosecution have the right of objecting to, or challenging, jurors.

At the trial the counsel for the prosecution, who is normally acting for the Crown, begins by stating what he intends to prove. He then calls witnesses and asks them questions in the same way as at the preliminary hearing. Each witness may be cross-examined and re-examined. The counsel for the prosecution is expected to act fairly towards the prisoner and to seek to ascertain the truth rather than to obtain a conviction. In other words, it is no part of his duty to attempt to convict an innocent man, or to use unfair means to convict a guilty one. The prisoner, or his counsel, may open the defence, call witnesses, and examine them. The prisoner may give evidence himself if he chooses, but cannot be compelled to do so by the prosecution. If he does give evidence, he may be cross-examined by the prosecution, just as may any other witness whom he produces. The prisoner's counsel then addresses the jury and discusses the evidence. The counsel for the prosecution addresses the jury last, unless there has been no evidence at all called for the prisoner. The judge then addresses the jury, explains the law on the case, and reviews the evidence, pointing out what facts the prosecution must have proved in order to justify a conviction. It is important to notice that the prosecution must prove to the satisfaction of the jury that the accused is guilty, and that the accused need do nothing to establish his innocence, unless he wishes. The fact that the accused does not give evidence may not be commented on by the prosecution, though it may be by the judge.

The jurors, when the judge has addressed them, bring in a verdict, or decision as to the guilt or innocence of the accused. If they have to consider this decision, they retire and are detained in some private place. They may not communicate with any one until they reach a decision. The verdict must be unanimous, and, if the jury is unable to agree, the court may order a new trial.

If the prisoner is found guilty, the judge asks if he has anything to say, and then pronounces sentence upon him; that is, orders his punishment in a particular way. As we have seen, the law allows the judge a good deal of discretion in most cases.

This is not always the end of the matter. The prisoner may appeal to the Court of Appeal, which may confirm the decision, alter the sentence, order a new trial, or acquit the accused. Unless its decision is unanimous there may be a further appeal to the Supreme Court of Canada, but not to the King in Council.*

There remains the execution of the sentence. The sentence may, however, be remitted by the Governor-General, acting on advice, and exercising the royal prerogative of pardon. It may be commuted or reduced. Finally, it may in appropriate cases be suspended. In such cases a prisoner is allowed his liberty as long as he conducts himself well, but if he commits fresh offences the old sentence may be put in force.

For juvenile offenders a special procedure and special courts are provided.

Offences against the laws of the Provinces are very like crimes and are dealt with in much the same way, though, under laws made by the Provinces. If a penalty is imposed for an infraction of provincial laws it is the Lieutenant-Governor of the Province and not the Governor-General who may exercise the royal prerogative of pardon.

We have pointed out the two great aims of our criminal procedure: to make the conviction of the guilty as probable as possible; and to make the conviction of the innocent practically impossible. British justice has been praised for its success in both directions, as having been expeditious and stern without ceasing to be fair. The fairness to the accused rests mainly on the spirit in which the law has been admin-

* See Chapter X.

istered: a spirit which could exist only in a country in which people had confidence in their law, and in which law-breaking never became so great a danger that it had to be repressed at all costs. These conditions have been well maintained in Canada.

We may notice a few features which distinguish our criminal procedure and contribute to its fairness. (1.) To obtain a confession is not a prime objective. The guilt of the accused must be proved beyond reasonable doubt even if he refuses to say a word in his own defence. (2.) The past bad character of the accused may not be proved in order to establish a probability that he has committed the offence with which he is charged, though it may be considered in deciding on his sentence after conviction. It is only in special cases that evidence can be given of previous wrongdoing. (3.) A witness may swear only to what he himself has seen or heard, and not as to what other people have told him that they have seen or heard. (4.) As a great many crimes are never directly seen or heard by any witnesses, they can be proved only indirectly from facts which have been so observed and from which the jury are led inevitably to the conclusion that the accused has committed the crimes with which he is charged. For instance, suppose that my watch has disappeared. The only man who knew where I kept it was the accused. The accused was seen prowling about my house on the night on which the watch disappeared. The accused was very short of money before that time and afterwards spent money more freely. From these facts might lead to the inference that the accused stole the watch. This method of proof is said to be by circumstantial evidence. Notice that the previous misdeeds of the accused cannot be given in evidence (*see* (2) above). The first three of these four principles have been taken as illustrations of the safeguards which are provided against the conviction of the

wrong man. The fourth is necessary to prevent the first three from making many reasonable convictions entirely impossible.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. A crime is (a) a deed of violence; (b) an act forbidden by law for which a penalty is imposed; (c) an act that we think shockingly bad; (d) any act that injures some one else.

2. We are proud of our criminal law because of (a) its severity; (b) its leniency; (c) its fairness to the accused; (d) its picturesque ceremonial.

3. A Grand Jury is (a) a body of men who try the question of whether a man accused of a crime is guilty or innocent; (b) a body of men who decide whether there are reasonable grounds for proceeding with a prosecution; (c) a body of men who decide the proper punishment for an offender; (d) a jury which has no women members.

4. The object of punishment is (a) revenge; (b) to frighten others; (c) to teach a lesson and lead to reform; (d) a mixture of (a), (b), and (c).

TRUE FALSE TESTS.

(See the explanation on page 20.)

- | | | |
|---|-------|--------|
| 1. The Canadian Criminal Code has completely superseded the rules of the English Common Law in criminal matters in Canada | True. | False. |
| 2. It is a crime not to help in saving life | True. | False. |
| 3. It is not a crime to do a wrongful act if one does not know that it is wrongful | True. | False. |
| 4. The Bill of Rights provided that prisoners must never be allowed out on bail | True. | False. |
| 5. A man cannot be convicted on his own confession if it has been obtained by promises | True. | False. |
| 6. A man cannot be convicted because of his previous bad character | True. | False. |
| 7. The preliminary examination of the accused warns him of the case which is to be made out against him | True. | False. |
| 8. When a true bill is found by a Grand Jury a bill of indictment becomes an indictment | True. | False. |

9. A prisoner is not allowed to give evidence in his own defence True. False.
10. The verdict of a jury must be unanimous in a criminal matter True. False.
11. A sentence may be remitted by the Governor-General if it has been imposed for a breach of the laws of a Province True. False.
12. A man may be convicted of a crime although there were no eye-witnesses of the deed True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

If you see some one commit a serious crime you are entitled to him. He will then be kept in confinement or be allowed out on until he can be brought before a for a If he is committed for trial he will next appear before a, which will either or Unless he is discharged he will then be brought before a, which will decide whether he is or Then if necessary he will be by the judge. He may to a higher court, and even if he is unsuccessful there the may still exercise the royal prerogative of

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. What do you think of the idea of some Sociologists that acts are made criminal when they are violently disliked by the bulk of the community; that in no community are all the people alike, for some are always in advance, some behind the general moral ideas of the time; and that, therefore, however good a community may become, there will always be about as many criminals as there are to-day?

2. What examples can you give of high-minded men and women who have been treated as criminals? Do you think that it is wrong to treat high-minded people as criminals? Or may circumstances make it either necessary or expedient to do so?

3. What information can you get from your histories about the circumstances under which the English criminal law was reformed at the end of the eighteenth and in the early nineteenth centuries? Has there been more or less crime since?

CHAPTER XIV.

NATIONAL ENTERPRISES.

The subjects which have been entrusted to the Parliament of Canada are very numerous and important. They include all matters which concern the "Peace, Order, and Good Government of Canada" and which do not fall within the subjects assigned exclusively to the Provinces. It is only for greater clearness that a number of topics are mentioned specifically. The words "Peace, Order, and Good Government of Canada" must be understood in the widest possible sense. They have included, for instance, the sending of an army to France, and the voting of money for the relief of the victims of an earthquake in another country.

It is the purpose of this chapter to consider what the government of Canada has done, either under specific powers, or under its general power to legislate for the good government of Canada, to carry out public enterprises or to encourage the formation of corporations for carrying them out.

The Post Office is an institution with which we are all familiar. It is really a vast business which carries letters and parcels, insures them, conducts a savings bank, and performs other services, for which payment is made by stamps or otherwise. Work of this sort can well be undertaken by a government for several reasons: it is desirable that it should be performed by one service throughout the whole country; the work is largely routine in character; the making of a profit is not the only standard of efficiency, as it is desirable that the work should be carried out for people living in remote districts even if their contributions to its cost do not cover the additional expense involved.

The execution and management of great public works—canals, piers, railways, elevators, harbours, and the like—

are sometimes undertaken by the government directly, sometimes entrusted to special bodies created for the purpose, and sometimes turned over to companies which receive financial help, or special privileges, or both, and which assume the risks of the enterprise in the hope of earning a profit for their shareholders. Under certain conditions each of these three methods has its advantages; but each has its corresponding dangers. In undertaking work itself, the government has the advantage of being able to borrow money easily and cheaply. It is, however, less able than an individual to supervise the labour which it employs and to secure hard and efficient work in return for the wages which it pays. In comparison with a private employer, the government is at a financial disadvantage in not being able to dismiss employees in times of temporary depression, because of the political consequences of widespread discontent. Indeed, generally speaking, the government is exposed to being unduly influenced by interested persons, and being coerced or persuaded into employing inefficient men or into undertaking work from which adequate returns cannot be reasonably expected. Many people have not, though all ought to have, the same scruple about obtaining money from a government that they would have about obtaining money from an individual, and, in one form or another, corrupt influences are apt to appear in government undertakings. But the prevalent standard of honesty and honour has greatly improved during the last century and enterprises are possible now which would have been out of the question a hundred years ago. We have only to go a little further back to find a time when joint-stock companies were distrusted, and with reason, on the grounds on which we may be sceptical of the success of government enterprises to-day. There seems, therefore, some ground for anticipating that government enterprise will overcome, or is overcoming as the standards of commercial

honour improve, some of the disadvantages which attach to it. The second method of carrying out a public enterprise, that of entrusting it to a body created for the purpose, is meant to eliminate or to reduce the possibility of political interference. It has often been adopted in cases in which several governmental authorities, the Dominion and certain municipalities for instance, are both contributing to the maintenance of some public service. We have adopted it for our National Railways. As you have seen, the Province of British Columbia adopts it for the management of the University of British Columbia. It is a method which has worked well but which has its limitations. The men entrusted with the conduct of the enterprise have not quite the same incentive for restless effort which a private undertaking affords, nor have they quite the same power of exacting efficient service from those whom they employ, nor have they the same freedom in incurring additional expenditure and embarking on enterprises which they think profitable. They work best, therefore, when there is some element of routine in what they are doing, and when the task of taking great risks in the hope of great returns is excluded from their duties. It is precisely in this last respect that private enterprise is at its best. People will undertake great risks willingly if they can hope to reap the profit in the case of success, and they will not, as a rule, be completely reckless if they have to stand the loss in the case of failure. Government enterprise provides neither the incentive for boldness nor the deterrent from recklessness. Then, private enterprise is frankly directed to making a profit, and is not expected to show the same consideration for other interests which a government, either for good or bad reasons, is expected to show. Private enterprise, therefore, is more likely to get its profit. It can deal with other interests on a purely business footing. As we have seen, it can dismiss employees in periods when trade

is slack. But, while these circumstances are advantageous from a financial point of view, they may be deplorable from a social point of view. In our public enterprises we do aim at other things besides profit. And there is a great deal to be said for not making the employees of a great undertaking stand the risks of slack trade; and for treating those risks as normally incident to the undertaking itself.

The generalizations of the last paragraph can be well illustrated from the history of our railways, of which you will find the details in your histories. Some of our railways are owned and managed by the governments of certain provinces, and others are owned by companies under the laws of the provinces. But railways extending beyond the limits of one province, or declared by the Parliament of Canada to be for the general advantage of Canada, or to be for the advantage of two or more provinces, are controlled by the laws made by the Parliament of Canada. Railways of the latter class have been of immense importance in the development of our country. Canada is dependent for its national unity on easy communication between one part of its territory and another. Natural communication was not easy. You will remember from your histories what an important part the navigation of lakes and rivers in canoes played in the opening up of the great North West, and in the early exploration of British Columbia. Transportation of this sort could not do more than meet the bare needs of a pioneering period. Settlement and steady intercourse depended on the existence of railways. You will remember that the construction of one railway—the Intercolonial—was the condition on which the three Canadian provinces federated, and that the construction of another—the Canadian Pacific—was the condition on which British Columbia entered the confederation. You will remember, too, that the construction of the latter railway was handed over to a corporation after direct

government enterprise had broken down. You will also remember the railway policy of the years just preceding the war when two additional transcontinental railway systems were brought into being to aid in the rapid colonization and development of western Canada. Here, too, private enterprise was called in to assume, in the hope of profit, risks which the government preferred not to incur. The risks ended in failure, because, owing to war conditions, the anticipated development did not take place. And, though, to some extent, the consequences of the failure fell on those who had invested their money in the private enterprises, they fell in part on the government which had advanced money and paid subsidies to the private companies, as well as constructing part of the railway on its own account. In some respects the existence of private enterprise had increased the wastage of resources, for different companies had built parallel lines only a short distance apart where there was no prospect of traffic which would keep both busy. However, the government now finds itself compelled to continue the operation of the railways which have been constructed. Their management, as has been indicated, has been entrusted to a board independent of direct government control. But this board cannot embark on new expenditure without the money for it being voted by Parliament.

The difficulty of construction and of operation is not the only one involved in the existence of our railways. It is important that there should be some supervision of the service which is afforded to the public, and of the prices or rates which the railways may charge. The public interest is that the railway rates should be as low as possible and that they should be as fair as possible; that is, that they should not give undue advantages to, or impose undue hardships upon, any section of the public. On the other hand, it is desirable that the railways should pay their way. If the government-

owned railways do not do so the losses have to be paid by the public out of taxation. To impose rates, which prevented the privately owned railways from paying their way, would be to deprive their owners of the chance of profit for the sake of which they were led or encouraged to risk their money in the first instance. To fix rates which will treat these conflicting interests fairly is a task that is really judicial in its nature. It has been entrusted to a Board of Railway Commissioners with very wide powers.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. Public enterprises are undertaken by the government (a) to make money; (b) to provide work for the unemployed; (c) to promote national development; (d) because private management is usually incompetent.

2. The objective of private enterprise is (a) the promotion of national development; (b) profit; (c) the provision of excellent conditions of work; (d) to benefit the public.

3. The principal duty of the Board of Railway Commissioners is (a) to build railways; (b) to encourage private companies to build railways; (c) to fix rates and supervise the service given by railways; (d) to arbitrate in cases of trade disputes between railway companies and their employees.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. A vote of money for the relief of sufferers from the earthquake in Japan had nothing to do with the "Peace, Order, and Good Government of Canada".....True. False.
2. The making of a profit is the only test of the efficiency of a government serviceTrue. False.
3. Private enterprise is more likely to incur risks wisely and yet boldly than government enterpriseTrue. False.
4. The Parliament of Canada has authority over any railway that it declares to be for the general advantage of CanadaTrue. False.

168 CITIZENSHIP IN BRITISH COLUMBIA.

5. The construction of the Canadian Pacific was a condition on which British Columbia entered the Confederation True. False.
6. The Canadian Pacific Railway was built by the Government of Canada True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

If a railway is declared to be for the general advantage of Canada, it is controlled by..... A Board of Commissioners called thehas been appointed to exercise this control. If a railway lies wholly within a single province and is not declared to be for the general advantage of Canada, it is under the control of..... In order to induce the Maritime Provinces to enter the Confederation the.....railway was built; in order to induce British Columbia to enter the Confederation the.....railway was built. The former was begun in; the latter was completed in.....

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. Give an account of the circumstances in which the Intercolonial Railway was constructed.
2. Give an account of the events which led to the construction of the Canadian Pacific Railway.
3. Under what circumstances was the Canadian National Railway system created?
4. What important canals have been built by the Government of Canada?

CHAPTER XV.

NATIONAL DEVELOPMENT AND SOCIAL
LEGISLATION.

We have now to consider the policy of the government of Canada on matters which have to do with the future development of the country. Canada has, as we know, a vast territory, great natural resources, and a relatively small population. The rate of natural increase in population, though relatively high for countries with western civilization under modern conditions, will not provide for a rapid peopling of the empty spaces in Canada. The annual difference between the number of births and the number of deaths is about 150,000. One of the most important questions which the people of Canada have to consider is how far they desire this increase to be supplemented by immigration from other countries. A great many considerations enter into this question. (1.) Have we any reasons for wishing to be a more populous country than we are? Do we aim at supporting a great population or rather at supporting a population with the greatest individual comfort? If we have the latter aim, will an increased population mean greater or less individual comfort than we could attain with our present population? (2.) Are we under a duty to the other people in the world not to monopolize the natural resources of Canada for our own advantage; or not to play the part of the dog in the manger? (3.) Can we select our immigrants; and, if so, on what basis should we make our choice? Should we prefer one race to another? Should we make a selection by the occupation of the immigrant? It is not possible to answer these questions positively. They are questions on which strong differences of opinion exist and which involve im-

portant individual interests. A brief discussion will make this clear.

Most people would, in a general way, like the country to be more populous than it is. Populous countries have greater aggregate wealth than small countries and are better able to support the burden of public indebtedness. They are more powerful, and have greater influence in world affairs. They may permit of the development of a richer national life, intellectually and culturally. We think of a greater population as giving us more customers and wider markets, and often forget that it will also give us more competitors. For instance, a shoemaker in a large town is probably no more prosperous, on the average, than a shoemaker in a small town, but the shoemaker in the small town will wish it to become a large town, and will consider his wish public spirited. He thinks of the newcomers as shoe-wearers and not as shoemakers. We rarely, if ever, make the contrast between greater aggregate wealth and greater average wealth that is suggested in the questions which we are discussing; and we are quick to assume that a greater population would lead to both of these things. We think of our natural resources as very great and as needing more people to use them to the best advantage. We do not think of them as limited and as something to be divided among as few as possible.

The question of a duty to other people is one which rarely troubles us. And yet it is worth a moment's consideration. We have dispossessed the original inhabitants, and have never suggested paying to them the total value of the natural resources which we have taken control of. We justify ourselves on the grounds that the Indians did not make much use of the natural resources; that they were relatively not very numerous; and that they were less civilized than the white men. To justify the exclusion of others we are apt to

go no further than to say that we should rather not have them, without thinking it necessary to show that we are likely to use all our natural resources ourselves, or that there is an important difference in civilization between ourselves and the newcomers.

Just as most people favour some immigration, so most people would limit it by selecting the immigrants whom we prefer, or, at any rate, by excluding those whom we do not want. There is general agreement in excluding people who are feeble-minded, or in bad health, or of bad character. But there are some other possible grounds for exclusion which are more controversial. Many would exclude, on racial grounds, immigrants who are not likely to become in a few generations indistinguishable from other Canadians. It is considered a danger to have in our midst communities distinct in character and in interests from their fellow citizens; and it is thought that a people consisting of various racial elements which will not mix with one another is less able to achieve or maintain a high degree of civilization than one which is more homogeneous. Others would exclude, on economic grounds, any immigrants who are likely by their competition to reduce materially the wages, and therefore the standard of living, of any considerable number of people now in Canada. This is an argument which it is very easy to accept in principle, but harder to apply in practice. Any class of immigration competes with some people already in Canada, while a diffused immigration, representing the various occupations in the proportions in which they are already represented in Canada, is impossible. What it all comes to is that there is decided opposition to immigrants who are expected to compete with people already here, unless the labour concerned is of a sort which is in such great demand that there can be an addition to it without wages becoming much lower, or is of a sort which is thought to be

too highly paid already. No class of labour ever considers itself as too highly paid. It is on these grounds that we must explain the tendency in the years following the war to limit immigration to farm labourers and domestic servants. And it is on these grounds that we often find organized labour opposing the immigration of skilled labour.

Finally, there is the question of attracting the immigrants whom we want. Advertising may be undertaken by the Dominion government or by companies engaged in transportation, to make known the advantages which Canada has to offer to those who make their homes there. Great scrupulousness is desirable in giving to people in a distant country a fair and accurate account of the country to which they are invited to come, because there is a strong tendency for an agent to be over-enthusiastic, particularly if he is paid in proportion to the number of immigrants whom he secures. It is also important that some help and advice should be given to the settlers who arrive in Canada. Part of this work has been undertaken in agreement with the government of Great Britain. Loans are made to cover the passage money to Canada, and in the case of families settling on farms an advance for the purchase of the farm is made by the British Government.

To look after the important matter of encouraging, helping, and supervising immigration, there is a responsible minister, the Minister of Immigration and Colonization. The Provincial Legislatures may make laws as to immigration into their respective provinces, but such laws have effect only so long as they do not clash with any laws made by the Parliament of Canada.

Some of our natural resources are under the control of the Parliament of Canada.* Fisheries, whether Sea Coast

* See Chapter IX.

or Inland, are controlled* by the Canadian Government, which has made regulations and taken measures for the preservation of the fish. It is in connection with fisheries that the treaty-making powers of the government have come to the front. Agriculture, like immigration, may be dealt with either by the provinces or by the Dominion, but if both act the Dominion legislation prevails. There are a Minister of Marine and Fisheries and a Minister of Agriculture in the Canadian Cabinet.

The Canadian Parliament also deals with the Indians and the lands reserved for their use. The duty of making provision for the aboriginal inhabitants of the country, by affording them the means of maintaining themselves in the manner of life to which they were accustomed, has been recognized. The schools for Indian children on reserves in British Columbia are looked after by the Dominion and not by the provincial Department of Education.

The Parliament of Canada has not done very much in the way of general social legislation of the sort that has been very prominent in most countries in recent years. One reason is that much of this legislation falls within the field of activity assigned to the legislatures of the provinces; another reason is that, in Canada, social evils have not existed in the same devastating way as in older countries. But neither of these reasons is as valid to-day as at the time of Confederation. Canada is very rapidly becoming an industrial country with a large part of the population concentrated in great cities, and subject to the dangers of an industrial civilization: periodical unemployment, certain industrial diseases, dependence in old age and in sickness. Legislation which aims at improving industrial conditions has become in recent years almost international in character.

* But the fisheries themselves may belong to a province. British Columbia has a Department of Fisheries and maintains a hatchery.

The introduction of better conditions of work, the insistence on shorter hours of work, the prohibition of the employment of young children, cannot be carried very far by one nation acting alone, because industries might be removed from it to other countries in order to avoid the expenses occasioned by the new regulations. In the same way no one province could safely establish working conditions which made the cost of industry higher than in the other provinces. But if agreements are made between several countries, or between the provinces, progress can be made more rapidly. Agreements with other countries can be made by the government of Canada, but not by the governments of the provinces, while it is best if matters on which the provinces must act in agreement can be dealt with by the common government which they have set up. It is therefore natural that we should find the Canadian Parliament beginning to avail itself of what powers it has to make laws on these subjects. Were a federal constitution being drawn up now instead of in 1867, we should probably find such subjects as Public Health and Labour being expressly mentioned, like Immigration and Agriculture, as subjects on which both the Dominion and the provinces might legislate. As it is, we find that there is a Canadian Department of Health* and a Canadian Ministry of Labour. The work carried on by these departments is very important. Much of it has to do with the collection and publication of accurate information concerning the various topics on which the public, or some section of it, requires to be instructed. For instance, in all bargaining as to wages it is of the utmost importance to know what it costs to maintain a family and whether the cost has risen or fallen since the previous settlement was made. The Labour Gazette, published by the Department of Labour, contains careful comparisons, for different parts

* Under the charge of the Minister of Soldiers' Re-establishment.

of the country, of the cost of living at different times. It is important to know what wages are being paid elsewhere and whether there is a tendency for them to rise or fall. This information too can be obtained from the Labour Gazette. In dealing with disputes between employers and employed, the Canadian Parliament, in order to make it as easy as possible for these disputes to be settled without resort to a strike, passed a very important Act making it necessary, in the case of services which were of importance to the public, for the employers and the employed to submit the dispute to arbitration before resorting to a lock-out or a strike. The award was not binding on the parties, who were free to lock-out or to strike after it had been given. It was meant as a guide to public sympathy, and as a measure for placing the blame for disorganizing a public service on the party which was behaving unreasonably. The Act was used very successfully for a number of years, but has recently been declared to be *ultra vires* of the Parliament of Canada, and therefore not a law at all.

Closely connected with social legislation is the preparation and publication of accurate information on all matters connected with our national life. This task is entrusted to the Dominion Bureau of Statistics, established in 1918. This bureau has taken over the work previously done by a number of different departments. It issues a number of publications and aims at collecting and publishing the information necessary to guide national policy. A few examples will show us the importance of such work. It is only by the intelligent use of figures that we can form a correct idea of the composition of the Canadian people and of how they live. We find, for instance, that 55 per cent. of our people are of British origin, 28 per cent. of French origin, and 14 per cent. of other European races. We find that 77.75 per cent. of our population is Canadian born; and we find that this is

a lower percentage than at any time since Confederation. Twelve per cent. were born in other parts of the Empire, 4 per cent. in the United States, 6 per cent. elsewhere. We must remember, then, that we are not a homogeneous people, that half our population is English speaking and Canadian born, more than a quarter French speaking and Canadian born, and rather less than a quarter immigrant. Our unity depends on the maintenance of harmony between these three elements. Turning from population to trade, statistics will show us how we, as a people, earn our living. About 38 per cent. of our annual production comes from agricultural occupations, and about the same percentage from manufactures. The chief other items are forestry, 9 per cent.; construction, 7.5 per cent.; and mining, 6 per cent. Of the male population between the ages of 15 and 65 more than 90 per cent. are gainfully employed, and very nearly all (96.28 per cent.) of the males between 25 and 65. A steadily increasing proportion of the women of the country are gainfully employed; but the proportion employed is greatest in the years between 15 and 25. More than a third of our workers are engaged in agriculture, and about 18 per cent. in manufacture. We have seen that the wealth produced is about equal in the two cases. Finally, we can learn from statistics with what countries we are most intimately connected by trade. Two-thirds of our imports come from the United States, one-sixth from the United Kingdom, one-fiftieth from France. Of our exports 41 per cent. go to the United States, 34 per cent. to the United Kingdom, $2\frac{1}{2}$ per cent. to Japan. Commercially, therefore, as well as in language and civilization our relations with the United Kingdom and the United States are peculiarly intimate. The importance of this fact in understanding the position of our country in the world can hardly be overrated.

These examples are meant to show the importance of statistics in teaching us about ourselves, and in enabling us to frame our policies. But to draw the proper conclusions from statistics is a matter which requires great care and great skill. We should aim at having, in our minds, a fairly accurate idea of the country we live in. We should not be confident about our opinions as to the best policy in public affairs until we have given them careful study and have thought over very critically the opinions and arguments of others.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. Immigration to Canada is encouraged because (a) we wish to help people living under inferior conditions elsewhere; (b) the rate of natural increase in Canada is exceptionally low; (c) we wish to increase the military strength of Canada; (d) we think that we should individually be more prosperous if there were more people in the country.

2. We exclude from Canada, (a) Chinese and Hindus; (b) Japanese; (c) American negroes; (d) people who are mentally or physically defective.

3. The proportion of our population that was not born in Canada is approximately (a) one-half; (b) one-quarter; (c) one-eighth; (d) three-quarters.

4. The country which buys most of our products is (a) the United States; (b) Great Britain; (c) France; (d) Japan.

TRUE FALSE TESTS.

(See the explanation on page 20.)

- | | | |
|--|-------|--------|
| 1. Countries always become more prosperous as their populations increase | True. | False. |
| 2. The affairs of Indians in Canada are dealt with by the separate provinces | True. | False. |
| 3. Labour legislation in Canada is a matter exclusively for the Parliament of Canada | True. | False. |
| 4. More than a third of our workers are engaged in agriculture | True. | False. |

178 CITIZENSHIP IN BRITISH COLUMBIA.

5. More than half our people are of British originTrue. False.
6. Legislation on matters concerning Public Health and Labour was not of great importance at the time of the B.N.A. ActTrue. False.

COMPLETION TESTS.

(See the explanation on page 20.)

Figures which indicate important information are called.....
From them we learn the number of people who come to this country to settle here. These people are called..... We exclude people on grounds of....., but not expressly on grounds of race. A movement of people from our country to settle in some other country is called.....

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. During what periods has Canada received most immigrants from other countries? What were the reasons for the movement of population?
2. From what races have the Canadian people come and in what proportions?
3. What is the most recent labour legislation of importance in (a) Canada, (b) British Columbia?
4. Why is most of our foreign trade with the United States and Great Britain?
5. What provision has been made for North American Indians in Canada?
6. Why are British Indians (Hindus) allowed to vote in some provinces but not in British Columbia?

CHAPTER XVI.

NATIONALITY, EXTERNAL AFFAIRS, DEFENCE.

We have hitherto considered a nation as consisting of the people who inhabit a definite territory and who have both sufficiently strong ties to ensure their unity and adequate organization for its expression. We must modify this idea to take account of the fact that membership of a nation is more permanent than residence in a definite territory. A Canadian who lives in China need not cease to be a Canadian, and an American who lives in Canada may remain an American. There must, therefore, be rules for deciding to what nation a person belongs. It is an important question because a man's nation has a certain authority over him, and usually affords him certain protection if he stands in need of it. Generally speaking, we may say that each nation decides by its own legislation whom it will recognize as its members, or nationals, and whom it will treat as foreigners, or aliens. It also decides, by its own laws, what the duties of its nationals are, and determines, by its own policy, what protection it will extend to them. But in all these matters there are guiding principles which nations acknowledge and which they recognize as binding on them. These principles, or rules, are a part of what is called international law. It consists of rules recognized as law by nations in their dealings with one another, just as the laws which we have hitherto examined consist of rules recognized within a nation as binding on its citizens. But there are important differences between international law and the laws used within a nation. There is no obligatory way of determining what the international law on a point is, and there is no way (other than war, which will be discussed later) of compelling or forcing nations to observe the law. For our present purposes it is

enough if we think of the rules as to who are members of our nation as being made by our own laws, and of the rights and duties of these members as also being determined by these laws.

At the outset of our inquiry as to the rules which decide who belong to our nation we are faced with a difficulty. Canadian nationality, or citizenship of Canada, as distinct from British nationality or citizenship of the British Empire, is important only for a very limited number of purposes. For immigration purposes, for instance, it is important—a Canadian cannot be refused admission to Canada though other British nationals may be refused admission. It is also important for the qualification for certain offices in connection with the League of Nations, of which several different parts of the British Empire are distinct members.* But for most purposes what it is important to know is whether some one is or is not a British national. It is more usual to speak of a British subject than of a British national because, largely for historical reasons, we think of the individual citizen as a subject owing allegiance to the King. In other countries as dynasties have become less important and peoples or nations more important this use of words has been sometimes abandoned.

The question of who is a British subject is determined by an Act of the Parliament of the United Kingdom which was drawn up in 1914 in consultation with the Dominions and which they have adopted as their own legislation. British subjects may be of either of two classes: (1) natural-born British subjects, comprising all persons born within the British Dominions or on British ships, and persons born elsewhere if the father was a British subject; and (2) British subjects by naturalization, comprising persons who have renounced a former nationality and have voluntarily become

* See Chapter XVIII.

British subjects. The conditions for naturalization are: either residence in His Majesty's Dominions or service of the Crown for five years; an intention to continue residence or service; a good character and an adequate knowledge of English (or of a language on an equal footing with English, and, therefore, in Canada of French). The wife of a British subject is treated as a British subject and the wife of an alien as an alien. But if a British subject becomes an alien by naturalization in some foreign country, his wife may, if she wishes, remain a British subject.

Canadian nationality is practically citizenship of Canada within the Empire. It is defined by the Canadian Nationality Act of 1921. Any person born in Canada is a Canadian, and so is any British subject permanently resident in Canada. The children of a Canadian though not born in Canada may be Canadians. A Canadian may, by declaration, renounce Canadian nationality without renouncing British nationality; that is, he may identify himself with some other British community, in Australia, for instance, or the United Kingdom.

The duties of British subjects are so essentially part of the general law of the land that there is no need to discuss them specially. It is simpler to deal with the laws which do not apply to aliens. Within its own territories a nation may make what laws it pleases both for its own subjects and for aliens. In coming to the country the aliens submit to its laws. But there are some things which the rules observed by nations preclude a nation from doing to aliens within its territory. It would be an unfriendly act to their nation to refuse them police protection or to deny them property rights. It would be considered wrong to force them (though not wrong to permit them) to serve in its armies in time of war. But it would be quite permissible to force them to help in maintaining order in time of fire or earthquake, and per-

haps even to aid in repelling invasion by an uncivilized enemy. It is very usual to disqualify aliens from holding important offices of state, or from sitting in Parliament, or even from voting. Aliens who are nationals of a country with which we happen to be at war are likely to be subjected to very great restraint. When nations make agreements with one another it is very usual to stipulate that within the territories of each the nationals of the other shall be accorded the same rights as are given to the nationals of any other foreign nation. In Canada it is the Parliament of Canada which deals with the rights of aliens in Canada.

The protection which a country gives to its nationals abroad consists largely in seeing that no foreign nation subjects them to improper treatment, by giving them inadequate protection or by forcing them to serve in its armies, or in any other way. We shall see that Canadians abroad receive this protection as British subjects and not as Canadians. Remember that the protection may amount to anything or nothing. In a badly governed country it may only be secured by some show of armed force. In a civilized country with a settled government it may be accorded as a matter of course and without there ever being any need for a protest from the nation to which the individual concerned belongs.

In discussing our own rules about nationality we must remember that other countries have different rules. Most European countries make parentage rather than birthplace the test of nationality. Great Britain and the United States have made the place of birth the test. And this policy is obviously the better suited to a country which is forming a nation not out of people with a common origin, but out of people of different origins, whose bond of union is life together in a common home.

We must next consider our intercourse with other communities. Those of our relationships which have to do with

other parts of the British Empire will be considered separately in a later chapter. Intercourse with foreign countries is carried on in various ways according to its nature. Much of it has to do with matters of routine in which recognized rules or existing agreements have to be applied. For instance, the return of a person accused of committing a serious crime in the United States is provided for by treaty, but in each particular case there are necessary steps to take. Treaties provide for the conditions under which fish may be taken in certain waters, but the execution of these treaties requires careful supervision in order that irregularities may be brought to the attention of the government concerned. For the carrying on of routine business each country maintains agents in every important foreign country. These agents, who are called ambassadors or ministers, are maintained by the United Kingdom and used by any part of the British Empire. In the case of the United States there is to be a special Canadian representative to look after Canadian business, and, in the absence of the British Ambassador, after the business of the British Empire. There is also an Agent-General in France, but his functions are narrower than those of an ambassador. In addition to these representatives who are accredited to the governments of foreign countries, it is usual for a state to maintain officials, called consuls, in foreign countries to look after the interests of its citizens there and to perform certain official acts for them. British consuls are maintained by the United Kingdom for the whole of the British Empire.

In the second place, intercourse with foreign countries may have to do with the making of agreements or treaties with them. The terms of these agreements are settled by negotiations between the accredited representatives of the parties. When the terms have been settled they must be ratified by the governments of the countries concerned.

What form this ratification must take depends on the constitutional law of each country. With us the King, acting on the advice of responsible ministers, may ratify, though it is usual to obtain the consent of Parliament for important ratifications. In negotiating a treaty the government of any one part of the Empire should give full information to the government of any other part which is likely to be interested. The treaty is signed by the representatives of whatever parts of the British Empire assume obligations under it. If only one part of the Empire is bound, ratification is by the King on the advice of his ministers in that part; if more than one part is bound, then ratification is only given after consultation. Canada, therefore, negotiates, signs, and ratifies treaties which concern Canada alone, and participates in the discussions concerning any treaties which affect Canada in any way.

In the third place, intercourse between countries may have to do with the settlement of disputes or conflicts of interest. These disputes may arise as to the meaning of a previous treaty, or as to the rules of international law which are applicable to the matter in hand, or as to questions of fact. They can often be settled by discussion and by bargaining. Sometimes they may be settled by referring them to a court, or arbitrator acceptable to the parties. Sometimes, however, the matters involved are of such vital importance that one of the parties is unwilling to trust to a judicial decision. Questions of this sort are often said to affect national honour. What is meant is simply that there are some things which some countries will fight for rather than sacrifice. Very few of us, for instance, would submit to slavery for ourselves and our children rather than fight, nor would a people readily submit to giving up its language or its religion. It is hoped that these are examples of causes of conflict which no longer exist as no nation need interfere

with another in this way. But as long as there is the possibility of two nations being absolutely insistent on opposite things a war is a possibility. In a war each party attempts to impose its will on the other by force. Some limitations have been imposed by international agreement as to the conditions under which force may be applied. The object is to limit the violence to what is essential for the purpose to be accomplished. But war remains a very terrible thing, in which the enormous destruction of life and property is almost certain to outweigh any material advantage which the stronger party may gain from the struggle. This fact is fully recognized and means are being sought to make the peaceful settlement of disputes compulsory and to provide the necessary force for this purpose.

For the management of our business with other nations there is a Department of External Affairs with a responsible minister at its head. At present* this important post is occupied by the Prime Minister.

We have seen that war is still a possibility and to provide the means to meet this contingency armed forces are maintained. All these forces—military, naval, and aerial—are controlled by the Department of Militia and Defence. It is the policy of Canada to keep these forces as small as possible consistently with safety. There is a Permanent Militia whose strength does not exceed 3,500; and a Non-permanent Active Militia with a strength of about 123,000. There are also certain reserves. The annual cost of these forces is about \$10,000,000. The Royal Canadian Navy consists of a few small ships and about 470 men. There are also reserves. The Royal Canadian Air Force has a strength of about 320 men exclusive of reserves. Its annual cost is about \$1,300,000.

* 1925.

It is obvious that these forces would not be adequate for a serious conflict with another country. If they are not greater it is because such a conflict is thought of as highly improbable. We have very few interests which could lead us to wish to interfere with the affairs of foreign countries, beyond protecting the elementary rights of our citizens abroad. We could hardly be attacked except in circumstances which would justify us in counting on the help of Great Britain, or the United States, or both. These countries both maintain relatively large and expensive armaments for the protection of their interests. It is on British forces that we rely for the protection of our citizens in foreign countries should such protection be necessary. The arrangement is very convenient. To provide for all eventualities, many of which are very unlikely, would be extremely expensive. The people of Great Britain are not put to additional expense on our account, beyond what they are obliged to incur on their own. Just as in the case of the diplomatic and consular services, the help to us is greater than the expense to them. In availing herself of the advantages of this situation, Canada has accepted an obligation the extent of which it is hard to measure accurately as no two opinions are likely to agree as to the value of diplomatic and consular services to our citizens, or as to the size of the armed forces which we should have to maintain, were it not for the existence of these other armaments. We shall see later* that in our tariff policy we have extended advantages to Great Britain without asking for any in return.

* Chapter XVII.

BEST ANSWER TESTS.

*(See the explanation on page 19.)**(Note that no answer may be absolutely accurate.)*

1. British subjects are (a) all people resident in the British Empire; (b) all people ordinarily resident in the United Kingdom; (c) all people born in the British Empire, or whose fathers were British subjects by birth; (d) all people whose fathers or grandfathers were born in the United Kingdom.

2. Canadian nationals are (a) all people ordinarily resident in Canada; (b) all British subjects born or ordinarily resident in Canada; (c) all people born in Canada; (d) all people in Canada who speak either French or English.

3. The diplomatic and consular services of the British Empire are paid for by (a) England; (b) the United Kingdom; (c) the whole Empire; (d) the Governments represented at Imperial Conferences.

TRUE FALSE TESTS.

(See the explanation on page 20.)

- | | | |
|--|-------|--------|
| 1. Each country makes laws as to whom it will recognize as its nationals | True. | False. |
| 2. Only Canadian nationals can vote in Canada | True. | False. |
| 3. No one can be naturalized as a British subject in Canada who cannot speak English or French | True. | False. |
| 4. No country may force aliens to serve in its army in war time | True. | False. |
| 5. Treaties are ratified by the King on the advice of the responsible ministers in the part of the Empire which is to be bound by them | True. | False. |
| 6. All treaties which bind Canada must be ratified by the Parliament of Canada | True. | False. |
| 7. The British and American practice is to make parentage the decisive test of nationality | True. | False. |
| 8. All disputes between nations must be settled by Arbitration | True. | False. |

COMPLETION TESTS.

(See the explanation on page 20.)

When a nation resorts to force to impose its will on another nation the two countries are said to be at..... It is then very im-

portant to know what the nationality of different individuals is. If a man is born in one country, that country will claim him as its If, however, he has adopted another nationality by in another country, that country will also claim his Either nation may treat him as a if he fights against it, and will punish him if he refuses to fight for it. In order to avoid war nations often agree to settle their disputes by

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. What causes led to (a) the Spanish-American War; (b) the Boer War; (c) the War of 1914-1918?

2. How were the following disputes settled: The Alaskan Boundary; the British claim to the Oregon territory and the American claim that 54' 40" was the proper boundary between the United States and British territory; the Alabama claims?

3. What provisions have been made for the peaceful settlement of disputes in connection with The League of Nations?

CHAPTER XVII.

CANADIAN FINANCE—THE TARIFF.

In earlier chapters we have discussed the finances of the municipalities and of the provinces. In its leading features the finance of the Dominion is not different. The services which are provided have to be paid for and the money has to be raised by taxation. The least wanted service should do as much good as the most irksome tax does harm. Some attempt should be made to make the burden of taxation on the individual citizens conform with a standard of justice. We have already seen the difficulty of agreeing definitely on what is just.

While the general principles remain the same, there are two conditions present in the finance of the Dominion which we did not encounter in the finance of the province. The first is that a very large part of the public debt of the Dominion is not represented by productive assets. The money was borrowed not for the development of the nation, but for its protection. It was spent for purposes that we thought worth while, that many of us thought more important than life itself. But it was not spent in such a way as to produce an income with which the interest on the debt can be paid, and the money for the interest must be found year by year out of taxation. The important question which arises is that of whether we should attempt to repay the borrowed money rapidly or continue to pay the interest year by year. There is something to be said for both of these policies. The policy of rapid repayment would involve very heavy immediate taxation. It can be argued that it is better to wait until the great natural resources of Canada have attracted more settlers and have led to the creation of greater wealth in the country. On the other hand, it can be argued that the fact

that, in order to pay interest on our big war debt, we must have relatively high taxation will discourage settlers from coming to Canada and capitalists from investing their money here. It is then urged that if we made a great effort and cleared off our burden of debt we could reduce our taxation and make Canada extremely attractive to labour and capital from other lands. There is nothing essentially unsound in either of these arguments. Which is the better depends on whether our natural resources really act as a powerful attraction in spite of our taxation or are outweighed by the fact of the heavy taxes. If Canada is likely to develop rapidly in this way it is a sound policy for us to wait and let the newcomers help in paying our war debt. If, on the other hand, Canada is not likely to develop rapidly as long as taxation is at its present level, then we ought to make a great effort to pay off our debt by very heavy taxation over a short period with a view to reducing taxation later. We cannot wait for newcomers if there are to be no newcomers! What policy we shall follow will be determined by our Parliament, which, as has been explained, is controllable by our people. The preceding discussion has been undertaken merely in order to show how difficult and complex are the tasks with which our legislators have to deal, and which we, as electors, have to supervise.

A second condition that is peculiar to Dominion finance is that indirect taxation can be used. We have seen that an indirect tax is one which is expected to be passed on by the person who first pays it. Generally indirect taxes excite much less dislike than direct taxes. The person who pays them in the first instance is not much worried because he expects to be reimbursed by others. Those who pay them ultimately do not mind very much because they do not realize what they are paying. If, for example, the price of boots is higher than it otherwise would be, because a tax is imposed

on their importation, a person who has always been accustomed to paying this higher price and of thinking of it as the normal price for a pair of boots hardly knows that he is being taxed. In early days so great was the reliance placed in Canada on indirect taxation that, when the sole power to levy it was conferred on the Dominion government, the provinces were compensated by a provision for annual subsidies to be paid to them by the government of the Dominion. These subsidies are still continued although the Dominion government has now to rely extensively on direct taxes for its own revenue.

The most important form of indirect taxation has been the tariff or taxes on imports. The word tariff comes from an Arabic word meaning to make known, and is used generally to mean a published price list. It is also used particularly to mean the list of duties or taxes payable when goods are brought into a country. The taxation of imports has been from quite early times a very convenient form of taxation. It is relatively easy to control trade at a frontier, for goods must be brought into a country by ships, or by railway, or by road.* The evasion of such taxes by bringing goods in secretly, or, as it is called, smuggling, is only remunerative if the tax is very high and the goods relatively small in bulk. The importer is usually a merchant and is well able to pay the tax when it is demanded from him. Import duties have, therefore, the advantage of being easy to collect. In spite of the rapid development of direct taxation in recent years, practically all countries still rely very extensively on tariffs for their revenue. Differences of policy come to the front when it has to be decided what articles are to be taxed and at what rates. It is possible, for instance, to mark down for taxation articles used mainly by the rich. But it is usual to rely for revenue chiefly on articles which are used exten-

* Transportation by air might alter all this. Every town would be a "port."

sively by all sections of the population, and if it is thought that these taxes bear proportionately too heavily on the poor, they are supplemented by heavy income taxes or inheritance taxes paid mainly by the rich. It is possible to rely for revenue on articles which must be produced outside the country. We might, for instance, tax raw rubber, tea, tropical fruit, and other things which cannot be produced in Canada. The danger, from the point of view of obtaining a revenue, which lies in taxing the importation of things which can be produced in Canada is that the tax may be evaded by producing in Canada and not importing at all. This danger could, of course, be counteracted by taxing articles produced in Canada exactly as heavily as imported articles. We shall see, however, that this has not been done, because it is believed that it is advantageous that some goods should be produced in Canada rather than in other countries. Indeed, we shall see that one of the principal uses of our tariff has been to encourage production in Canada by taxing imported articles. Many people think that this policy of using the tariff for the purpose of "protecting" our industries should be carried much further and that imported goods should be far more heavily taxed than at present. There are others who think that the protection which is given is really injurious to Canada. All these beliefs can be supported by arguments which are not unsound, so that differences of opinion are natural and legitimate. As in the case of the repayment of war debt, we shall indicate the arguments in order to give some idea of the problems with which our representatives, and therefore we ourselves, are faced. We must constantly bear in mind that government and public policy are not simple things which require only honesty and good intentions.

Let us first examine the case of those who consider that tariffs should be used for revenue purposes only, and, there-

fore, that duties should be imposed on a small range of articles of more or less general consumption, which are hard to smuggle, and which are not likely to be produced in the country itself. They argue that it is only by leaving trade free from unnecessary restraints that we can ensure that the labour and resources of Canada will be employed in the most profitable manner. If we buy articles from abroad it is because we can get them in exchange for other things which we can make more cheaply. If we made at home the things which we find it profitable to buy from abroad we should have no time for making the things which we now sell to people in foreign countries. In short, we should trade freely with foreign countries for the same reason for which a doctor employs a cook, or a lawyer a stenographer. If the doctor cooked his own meals, or the lawyer typed his own documents, they would economize in one way (keeping money at home!) but would have less time for their main occupation and earn less money in it.

Let us next consider the case that can be made out for using a tariff for protective purposes, and, therefore, imposing duties on articles which would otherwise be produced abroad but which can be produced in Canada at a not immoderate cost. The effect of such duties is either to stop the importation altogether and raise the price of the articles in Canada by an amount not greater than the amount of the duty, or to create a situation in which some of the articles are made in Canada and others imported in spite of the duty. It is argued that under these conditions an industry may become established in Canada which is so well suited to the country that, once it is well established, it will need no further protection but may even be able to produce for sale abroad. It is also argued that even if an industry must be protected indefinitely the cost of protecting it may not be very great and may be more than counterbalanced by the

advantage of having the industry in the country. This point can be illustrated by going back to our example of the doctor and the lawyer, and pointing out that a nation is not quite in the same position as an individual. We are not all alike and some of us are suited for one occupation and some for another. People whose aptitudes fitted them for an industry which would not exist in Canada without a tariff to protect it might be a burden to the country unless an occupation were provided for them; or, more probably, might leave it and go to a country where they could find scope for their talents. In the same way people may come to Canada and may bring capital with them in order to engage in a protected industry here. This possibility of increasing or reducing the amount of labour and resources in a country makes its case quite different from that of an individual who has only a limited number of hours in the day.

Another argument which is used in defence of a protective tariff is that it can be used so as to prevent a country from specializing in a small range of occupations and depending on other countries for many things. It is said that this dependence may be dangerous because, while conditions in Canada are within our own control, conditions in foreign countries are not. If we depend on selling to them and buying from them we may find that some such calamity as a great war leaves them too poor to buy from us and so ruins our industries.

Perhaps the chief argument for a protective tariff is to some extent a mixture of those which have been discussed. It is said that we should manufacture finished goods from the primary products which we produce in such great quantities: that we should sell lumber and not logs, or paper and not pulp-wood, or flour and not wheat. If we sell only primary products it is said that we remain a people with a narrow range of occupation, and therefore, perhaps, with

a narrow range of thought; that we lose the opportunity of developing an all-round nation with the intellectual and cultural development which seems to require city life and a concentration of wealth; that we are deprived of the variety necessary for growth. As the argument in this form is rather vague and not easy to bring home to people quickly, it is very usual to put the case for not selling raw materials as if it were just a question of commercial advantage. If we sell raw materials we may sell for \$10 something which, after it had been manufactured, we might sell for \$90. What folly! We are losing \$80! Now, while the argument in this form may convince people, it is childishly absurd. The increase in value of \$80 is the result of work done and expenditure incurred. No reason has been given for supposing that this work and this expenditure could not have been used in as remunerative a way in some other occupation. Even if we buy back as manufactures the same things which we sell as raw materials, we are doing neither more nor less than paying a foreigner for doing something which he is willing to do more cheaply than we can, and we eventually get the manufactures more cheaply than if we had made them ourselves.

This illustration of a fairly sound argument being put in a childishly erroneous way in order to convince people, who would not understand it in its sounder form, has been given for the purpose of showing that you must not condemn a case merely because it is supported with a bad argument. Very many people indeed will use arguments which they know to be unsound, or even make statements that they know to be untrue, if they are firmly convinced that the conclusion which they lead you to form is a sound one. They do not think of themselves as telling lies but as telling the truth in the only way in which it can be understood. In this way people who think vaccination against smallpox good

will exaggerate the protection which it gives. People who believe the use of alcohol to be injurious will exaggerate the probability of harmful results ensuing. People who thought that men ought to enlist during the war would overstate the wickedness of the Germans. People who think that, as has been suggested in an earlier chapter,* confidence in our neighbours is necessary for peace will often try to remove even well-founded distrust. And, speaking generally, people who hold opinions very strongly would like to have those opinions taught as truths to the children in the schools. Don't be quick to condemn the people who do these things, for they act generally from the very best of motives, but think very carefully before you do them yourselves.

Let us return to the question of tariffs. A very good case can be made out for using a protective tariff, and a good case against. The arguments in themselves are sound if the facts make them applicable to the condition of Canada. And the question of what the facts are at any particular time—whether, for instance, a slight protection will establish a new industry firmly in Canada, or whether we are losing a valuable population which might easily be kept in Canada—is one of great difficulty which must be determined in the Parliament of Canada.

In comparison with the tariffs in other countries, our tariff is low. It yields us more than a third of our national revenue and it can be fairly said that there is no very widespread demand for the abolition of its protective features. In every country every industry would like to be protected, and when a great many industries are protected it is hard to refuse protection to any. For any particular industry it is preferable to extend protection to one more industry than to lose it itself. So a movement against a moderate protection which has once been established is very unlikely.

* Chapter XVI.

There is, however, an important exception to this statement. If production is carried on for sale abroad, protection at home may be of very little or no value. Our farmers are producing in this way and are apt to feel that they are being called on to pay the cost of protecting other industries without receiving any protection themselves. It is, therefore, from them that what demand there is for a lower tariff comes.

Before leaving the question of the tariff we must mention the very important feature of it which consists in charging lower duties on articles which come from Great Britain than on similar articles coming from foreign countries. This British Preference was introduced by the ministry of Sir Wilfrid Laurier in 1896. It is really a form of protection of British industries in Canada. It has served several purposes. To lower the duties charged against one of the most important manufacturing countries in the world was a concession to those who wished for lower tariffs. It was expected that Great Britain, whose people already buy from us far more than we buy from them, might reciprocate by giving special advantages to Canadian trade. Protection has been very little used in Great Britain, and in 1896 was not used at all. Some years later the people, at a general election, pronounced very strongly against protective tariffs. Since the war some such duties have been imposed and in appropriate cases preferences have been given to articles made in the British Empire. Finally, the British Preference was thought of as a return for the advantages received from the use of British diplomatic and consular services, and for the protection afforded by the existence of British military and naval forces. But it is very important indeed to note that none of these matters were ever dealt with in a spirit of bargaining. Canada gave to Great Britain, just as Great

Britain gave to Canada, help that could be given readily and consistently with national policy.

In 1923 the British Preference was increased by giving a discount of 10 per cent. of the duty payable (if it exceeded 15 per cent.) provided that the goods were imported through Canadian ports.

While the Customs duties furnished, before the war, the bulk of the revenue of the Dominion government, the Excise duties which were levied on spirits, malt, and tobacco produced in Canada were also important. The revenue from the Post Office more than paid for its cost.

The war occasioned very heavy expenditure and increased the cost of the work which the government was already carrying on. To meet this increased cost and to pay interest on the borrowed money special war taxation was introduced. This taxation has been modified from year to year. At present its most important features are: the Dominion income tax, which is graduated so that large incomes are taxed at heavier rates than moderate incomes; a sales tax at the rate of 5 per cent. on goods sold by manufacturers to retailers and on goods imported into Canada (some articles, such as text-books and the instruments of production in certain industries, are exempted from this tax; while others, such as boots and shoes, are taxed at half the ordinary rate); a stamp tax at the rate of 2 cents on every \$50 on cheques which exceed \$5 in amount, with a maximum on any one cheque of \$1; a stamp duty of 2 cents on all receipts for sums over \$10. As all these taxes are relatively new to Canada, we must expect many changes in detail to be made from time to time.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The Dominion government imposes (a) direct taxation only; (b) indirect taxation only; (c) both direct and indirect taxation; (d) taxation on the provinces only and not on individuals.

2. Tariff duties have been imposed (a) for revenue purposes only; (b) to encourage Canadian industries; (c) for both reasons (a) and (b); (d) to deter people from extravagant expenditure.

3. By the British Preference is meant (a) that in public appointments a preference is given to British subjects; (b) that, in general, the duties charged on imports from the United Kingdom are lower than those charged on similar goods imported from other countries; (c) that the United Kingdom charges lower duties on imports from the Empire than on foreign imports; (d) that people who emigrate from Great Britain prefer to settle within the Empire.

4. The largest part of the public debt of the Dominion represents (a) provincial debts taken over on Confederation; (b) debts incurred during the war of 1914-1918; (c) money borrowed for railway purposes; (d) subsidies to Canadian industries.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. An indirect tax is usually more unpopular than a direct tax True. False.
2. Most countries rely chiefly on direct taxes for their revenue True. False.
3. The Canadian tariff is, relatively to those of other countries, a low tariff True. False.
4. The object of protection is to make it more profitable to manufacture or produce in Canada than to import from abroad True. False.
5. Opponents of protection believe that it is most profitable to buy in the cheapest market and to devote the resources of the country to the production of those things for which there is the best market True. False.
6. If we sell raw materials we sell for a low price things which, when manufactured, we could sell for a higher price. We therefore lose the difference True. False.

7. Protection has been relatively little used in Great Britain since 1846 True. False.
8. Lower duties are charged on goods from Great Britain than on goods from foreign countries as the result of a bargain made with Great Britain in 1896 True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

The list of duties imposed on foreign goods coming into Canada is called the..... Duties imposed on goods produced in Canada are called.....duties. Both are.....taxes. Lower duties are often charged on goods from Great Britain than on similar goods from other countries. This concession is called the..... Import duties for goods coming into Canada are.....than the corresponding duties in most other countries.

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. Do business men in your locality prefer protection or free trade? What reasons do they give for their preference?
2. What events led to the adoption of a free trade policy in Great Britain in the middle of the XIX. Century?
3. What is meant by the National Policy in Canadian history?
4. What discussions have arisen in connection with projects for Reciprocity with the United States?

CHAPTER XVIII.

THE BRITISH EMPIRE.

We have seen that for some purposes we think of ourselves as members of a larger political organization than Canada. While for some purposes we speak of ourselves as Canadian nationals, for others we speak of ourselves as British subjects. There is no contradiction between the two things, for we cannot be Canadian nationals without being British subjects. Although the organization of the Empire is not of such a character as to affect very much the legislation which concerns us in our everyday life, a description of our government would be incomplete if it did not include an account of our relation to the other communities in the Empire. This relation has changed very greatly since the time of Confederation, and we must not think of it as unlikely to change continually as conditions change. A study of the changes which have taken place in the last fifty years is very important. It is a matter of history and you will find that an adequate account of it is given in your histories. It is only with the present situation that we can deal here—the past you can read about elsewhere; the future you may help to shape.

The British Empire consists of a great many peoples at different stages of political, economic, and social development. These peoples are distributed in various countries, and have different systems of government according to their circumstances. Their unity in a single Empire with a common sovereign is historical in its origin; that is to say, it has been brought about by such a multiplicity of causes that no single factor, whether economic, racial, religious, or social, can furnish an adequate explanation. A similar statement would be true of Canadian national unity.

A glance at some of the communities which compose the Empire will give an idea of its complexity. First of all, there is the United Kingdom of Great Britain and Northern Ireland. The Parliament of the United Kingdom can, as we have seen, enact laws which have force throughout the Empire, though in practice this power is not exercised so as to interfere with the recognized rights of other parts of the Empire. The Cabinet which is responsible to this Parliament can give the King advice which he is bound to follow in matters relating to the whole Empire or to any part of it, though this advice is not given so as to interfere with the recognized sphere of action of other parts of the Empire. One has to speak with some vagueness because there is no document defining the rights of other parts of the Empire and the proper sphere of action of those parts is constantly changing. Indeed, at any given time there may be some uncertainty as to how far it extends. It is measured by the current practice of governments and when we say that it will not be interfered with we are only saying that the practice of governments will not be changed capriciously or abruptly.

We next come to a number of communities which are said to be autonomous. They carry on their own affairs without any interference from other parts of the Empire except in matters which are recognized as being of common concern. These communities comprise: The Dominion of Canada, The Commonwealth of Australia, The Dominion of New Zealand, The Union of South Africa, the Dominion of Newfoundland, and The Irish Free State. Each has its own constitution, and, while the relations of each to the rest of the Empire are not entirely similar, they are sufficiently so to make it possible to speak of these communities as having Dominion status. Their membership of the Empire precludes them from having the same freedom of action as completely inde-

pendent communities, or states; though they have ample scope for developing the intimate unity and distinctive character which constitute a nation. Let us glance at some of the limitations, remembering that these are acquiesced in by the communities concerned as not conflicting with their national ideals. There is a common sovereign whose title to the throne depends on legislation enacted by the Parliament of the United Kingdom. The Parliament of the United Kingdom has, as we have seen, the power of passing what laws it pleases, but can be trusted not to abuse that power by interfering with the Dominions. The Empire has unity as a single state for some purposes. No one part could remain neutral if the Empire were at war, though it might remain inactive. For instance, the Parliament of Canada would decide whether to take part in the prosecution of a war in which the Empire engaged, but the enemy country would be entitled to seize Canadian property at sea, to bombard Canadian ports, to treat Canadians resident in that country as enemies, whether the Canadian Parliament made *one decision or the other*. The enemy country would be entitled to do these things, but would, of course, not be bound to do any of them, and might, if it chose, treat Canada as being in a neutral position. Another aspect of our unity as a single state is to be found in the fact that foreign countries cannot take cognizance of the relations of one part of the Empire to another, any more than they can of the internal affairs of a state. For instance, when the American government invited the British Empire to a Disarmament Conference at Washington it could not say that each Dominion was to be represented separately; or when in 1896 the British Preference was embodied in the Canadian tariff, we did not consider that there had been any breach of our obligation to treat Germany as favourably as the most-favoured nation. That we should be a unity for some purposes and a

number of separate communities for others, and that there is no written rule for determining where unity ends and diversity begins, makes the organization of the British Empire very difficult for foreigners to understand: in 1896 a tariff war with Germany followed the creation of the British Preference; in the discussions in the American Senate on the question of entering the League of Nations objections were taken to the separate membership of the Dominions as giving too many votes in the Assembly to the British Empire.

We next come to some communities in the Empire which do not enjoy complete autonomy in the same way as the Dominions. Of these the most important is the Indian Empire, which consists of British India and a large number of Indian Native States whose rulers accept the sovereignty and enjoy the protection of the King-Emperor. British India is divided into a number of provinces which have legislative assemblies and executives which are composed partly of ministers responsible to the assemblies and partly of ministers independent of them. The reason for this system is that there are some subjects which it is thought dangerous to entrust immediately to the control of assemblies chosen by people who are only beginning to govern themselves. It is anticipated that bit by bit all subjects will eventually be transferred to responsible ministers. The native states are very unequal in size and in status. In principle each has its own form of government subject to advice. The central government of India consists of a legislature of which the majority is elected by various constituencies. The executive council is not responsible to it, though a good deal of deference is shown to its wishes. Here, too, changes are anticipated which will gradually introduce responsible government. In a country whose institutions are changing rapidly there is bound to be great political excitement and great strife between those who want to change as quickly as pos-

sible and those who prefer greater caution. In India the situation is further complicated by the fact that the Civil Service is composed in its higher ranks of men recruited mainly by competitive examination in England, and therefore largely by Englishmen. This system has resulted in a very high standard of competence and trustworthiness, but has led to resentment, as Indians felt that they were treated as inferiors unfit for positions of responsibility. Indians have also resented very deeply the fact that they are excluded as immigrants from many other parts of the British Empire, and that those who have been admitted have not been given the same political rights as other British subjects.* We must always bear in mind that in India there are diversities of race, civilization, and religion, which make its people comparable with the inhabitants of a continent rather than of a single country. What unity exists is largely the result of the political organization created by the British in the last century.

The Island of Malta has a constitution not unlike in principle that of an Indian Province. Southern Rhodesia has extensive but not complete autonomy.

We next come to various communities which are dependent on some one of the autonomous nations in the Empire. Canada, Newfoundland, and The Irish Free State have no dependencies, and the other Dominions have very few. The dependencies include peoples at every stage of advancement and importance. A few examples will illustrate their diversity: The Isle of Man and the Channel Islands; Colonies with elective legislatures but without responsible government (Bahamas, Barbadoes, Bermuda); Colonies whose legislative councils are partly elective (British Guiana, Ceylon, Cyprus, Jamaica); Colonies in whose legislatures the appointed ele-

* In British Columbia, for instance, Hindus are not allowed to vote.

ment predominates (Hong-Kong, Mauritius, and others); Colonies without legislative councils (Gibraltar, St. Helena).

In certain territories the British Empire, while not undertaking their government, is recognized as having some rights of control, which, at least, preclude other countries from taking possession of them. Great Britain assumes in respect of these territories the duty of seeing that foreigners are fairly treated there, and of seeing that the inhabitants of these lands are fairly treated in foreign countries. In principle the internal government of a protectorate is left untouched.

Certain territories, which formerly formed part of the German or Turkish Empires, have been entrusted to the care of Great Britain by a Mandate from the League of Nations; and certain other territories have been entrusted to British Dominions. The community which receives such a mandate is placed in a position of trust. It is given the task of supervising the administration of the mandated territory in the interests of the inhabitants of that territory and with due respect for the rights of foreigners. Its position is not unlike that of a guardian appointed to manage the property of a child. Periodical reports must be made to the League of Nations. The terms of the mandates vary with the circumstances of the mandated communities. In some cases it is anticipated that the people in the territory will eventually assume the duty of governing themselves and will become independent communities. The territory of Irak, better known perhaps as Mesopotamia, is being organized in this way and, in accordance with a treaty with Great Britain, is to seek admission as a member of the League of Nations.

We see then that the British Empire, besides affording an intimate relationship between a number of self-governing nations, is also providing opportunities for other communities to become self-governing nations, and is maintain-

ing relations between primitive peoples and peoples which are economically more advanced. This latter task is one of great difficulty and of great importance. Left to themselves, peoples at different stages of civilization mix or meet on terms that are very harmful to both. The more powerful people has often sought to make the other a source of profit and nothing else. A hundred and fifty years ago the slave trade flourished. In recent times *unequal* trade has often been carried on, in which arms or intoxicating liquor have been supplied on exorbitant terms to people very unlikely to make a good use of either. Traders have often engaged in and encouraged tribal wars. Sooner or later civilized communities have to assume control of these relationships. But their control has not always been beneficial. Sometimes they have merely provided a means for their own citizens to extort profit from the members of the more primitive community. Within the British Empire the principle has been gaining recognition that control should be exercised in the interests of the inhabitants, and this principle has been accepted by the League of Nations as the basis of its mandates. But it is one thing to recognize a principle and another to observe it scrupulously. The task of seeing it scrupulously observed is one of the duties of Empire. Its proper performance is a matter for pride, its neglect a terrible disgrace.

The Empire, as we have described it, has no government, in the sense in which that term has been used in speaking of Canada, or of its provinces. It has no body which habitually makes laws for it, and to which an executive is responsible for its acts. Indeed, as it has no single parliament, so it has no single executive. We have seen that the parliament of the United Kingdom, and the Cabinet which is responsible to it, can *legally* act in the name of the whole Empire; but we have also seen that in practice their sphere of action is

not nearly so wide. In practice there are many governments each with its own proper competence.

To ensure adequate consultation on matters of common interest, and to discuss principles such as those mentioned as applicable in the case of treaty-making,* a conference of representatives of the most important governments is held at regular intervals. The functions of this Imperial Conference are purely consultative. It does not advise the King as to common action. It is not, like a Cabinet or executive council, responsible to an elected body. It is neither an Imperial Parliament nor an Imperial Cabinet. But it consists of members who are at the head of the various governments in the Empire and who, therefore, enjoy the confidence of the various parliaments in the Empire. If, therefore, any common action is unanimously accepted as desirable, it is very likely that it can be carried out through the governments concerned. Remember, however, that agreements are not binding until legislation to give effect to them has been enacted in the various parliaments.

Between the times of meeting of successive conferences matters of great importance may arise, particularly in connection with dealings with foreign countries. These matters are dealt with, in the first instance, by the government of the United Kingdom. It should keep the government of any Dominion, which is even remotely concerned, adequately and promptly informed of what takes place; and comment or advice should be given in return. If there is disagreement as to the right course to pursue, there is no means, such as exists in the government of a single country, of coming to a decision which is binding on all, whether they think it good or not. We have seen in the case of Canada how important it may be that common action should be taken in certain matters, and how we may be quite ready to concur

* See Chapter XVI.

in action with which we disagree in order to preserve a unity which we think valuable. In Canada, or in any other nation, this agreement is not voluntary in each individual case, but is arrived at through consultation among our responsible representatives, in a parliament whose decision by a numerical majority is binding on us all. In the case of the British Empire it is different. There may be a good deal of give and take, proceedings may be governed by the wish to preserve unity of action and influence, but a dissentient Dominion can never be bound by a majority vote.

In an emergency it may be necessary to make a decision rapidly and before consultation can take place. In such a case the Ministers of the Crown in the United Kingdom may decide that, in their judgment, the best course is to take action and to rely on its being accepted or ratified by the Dominions. Now, some of the Dominion governments may think that this was not the best course and that the action taken was unwise. Great tact and great fairness are essential if serious misunderstandings are to be avoided.

These difficulties are further complicated by the fact that the responsible ministers in the United Kingdom, confident that they enjoy the confidence of their own parliament, are prepared to take definite action in urgent cases, or to engage to do so, without formally consulting parliament, whose assent is taken for granted. Ministers in the Dominions, on the other hand, are not quite so confident that parliament will place complete reliance on their judgment. The opinion of the cabinet is less important, that of the caucus more important, than in Great Britain. Dominion ministers are, therefore, more reluctant to commit themselves to definite action in advance. Now, consultation between cabinets may be secret and expeditious, while the consultation of a parliament is slow and involves a publicity which may be very undesirable when negotiations are in progress.

The difficulties which have been indicated appear to some people to be very serious and to involve very great dangers of conflicts of interests which might destroy the Empire. If the system is worked by fair-minded men who aim, above all else, at preserving unity in action for the common good, proper allowances will be made, and, if there are differences of opinion or interest, some will eventually agree to accept the views of the rest. If we suppose that the men whom we choose to govern us are either not fair-minded, or have not this supreme aim in view, then no system would suffice to maintain co-operation with the rest of the Empire.

The organization of the Empire, as we have seen, aims at co-operation for the promotion of common interests, by consultation between autonomous governments. This aim has been made the basis for the League of Nations, which was organized in 1919 at the close of the late war. All the important nations of the world, except the United States of America and the Soviet Republic of Russia, have become members, or have signified their intention of becoming members of the League. With the organization of the League we have no space to deal. Each of the great Dominions of the British Empire has a separate membership in it and deals with it directly. A very wide range of subjects are discussed on which action, to be really effective, must be international in character. One of the most important of these is that which has to do with the peaceful settlement of international disputes and the prevention both of war and of the costly preparations for possible wars. Wars, if we assume them to have been avoidable, have seriously impeded social progress in most civilized countries. They may be avoidable for all the nations of the world acting in concert, and yet not avoidable for nations acting separately or in groups.

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The unity of the British Empire is in origin (a) racial; (b) religious; (c) linguistic; (d) economic; (e) historical; (f) geographical.

2. The unity of Canada is in origin (a) racial; (b) religious; (c) linguistic; (d) economic; (e) historical; (f) geographical.

3. The Indian Empire consists of (a) an independent country in southern Asia; (b) a number of Indian principalities under British protection; (c) a federation in the East Indies; (d) the provinces of British India and a number of protected states.

4. Imperial Conferences (a) make laws for the British Empire; (b) are merely consultative bodies at which the heads of various governments discuss matters of common interest; (c) conduct the executive government of the Empire and give advice to the King, which he is bound to follow; (d) negotiate all treaties made by the British Empire.

5. The League of Nations is (a) an alliance of the countries which won the war of 1914-18; (b) a federation of all the nations of the world; (c) the body which makes international law; (d) a society of nations for consulting on measures for their common good, which includes most of the important nations of the world.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. The Irish Free State is no longer part of the British Empire True. False.
2. Autonomous dominions are nations which manage those affairs which concern themselves alone True. False.
3. The succession to the kingship in the British Empire is governed by a statute of the Parliament of the United Kingdom True. False.
4. If the Empire is at war Canada is legally bound to contribute men and money True. False.
5. If the Empire is at war the country with which it is at war is entitled to treat Canadians as enemies.... True. False.
6. The Dominions are individually members of the League of Nations True. False.

212 CITIZENSHIP IN BRITISH COLUMBIA.

7. The Government of British India is carried on almost entirely by Indians True. False.
8. Mandates are the exclusive rights of trading with certain undeveloped countries True. False.
9. The presence of unregulated white traders is highly beneficial to primitive peoples True. False.
10. The British Empire has no definite written constitution True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

The following sentences indicate the political status of different parts of the British Empire: Canada is.....; Gibraltar is a.....; Newfoundland is.....; India is.....; The Channel Islands are.....; Irak is.....; Malta is.....

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. Describe the origins of the British Empire in India.
2. Give an example of a British possession which owes its origin to each of (a) the slave trade; (b) British action for the suppression of the slave trade; (c) missionary enterprise; (d) trade expansion; (e) settlement; (f) conquest.
3. What circumstances led to the formation of the League of Nations? Why is Russia not a member? Why is the United States not a member?
4. What effects has the coming of the white man had on the North American Indian?

CHAPTER XIX.

THE AIMS OF GOVERNMENT.

We have tried to show how we are governed and what the people of Canada are trying to accomplish through their government. Our interests as individuals are in constant conflict. Some people want one thing, and some another, and for reasons or motives which vary from the most brutal selfishness to the most extravagant idealism. It has been shown that our government is a means by which compromises are effected, and by which policies are decided on, which can be supported by almost all, although they are not precisely those which any particular individual might have chosen. This uniting of our efforts for common purposes, with the give and take which it involves, is the work performed for the nation by its government. The aim of government is to promote the aims and interests of the people. What those aims are is a matter of fact, though it is often difficult to find out. What they ought to be is an ethical question, a matter of opinion on which we must expect to disagree with one another. But there are some things for which we all wish in a general way, and which we all agree that it is right to wish. We all want Peace, Law and Order,* and Prosperity. But there are vaguer though not less important aspirations to consider. Most people would agree that we want justice, liberty, the opportunity for all people to live good lives, charity to others even outside our own country. Unfortunately people differ from one another in the meanings which they give to these words. Is it just or unjust that the child of improvident and destitute parents should have withheld from him the opportunities for which neither he nor they can pay? Has an habitual drunkard more liberty if he is

* Order means different things to different people.

allowed to drink or if he is restrained from drinking? Is a good life one in which we attain the greatest happiness, or one in which we perform our duties best and help others most? Or, as a matter of psychology, must both these things go hand in hand? How far does charity demand that we should sacrifice ourselves to help others? Different people will answer these questions very differently, as you can find out if you care to experiment a little by asking questions. So these aims of the nation are vague, though each one of us may, and indeed should, form his own ideas as clearly as possible about them, both for guidance in his individual life and to help him in judging the government of his country.

But we are not at the end of our difficulties! We have mentioned many things as desirable. What is to happen if we cannot have them all at once, and have to choose between them? Prosperity and charity may not always go well together. We may, for instance, wish to help in relieving a famine in Russia, but may think the cost too great. In cases of conflict we are sometimes confronted with irreconcilable differences of opinion as to what is right and what wrong. Some people will prefer peace to liberty; others liberty to peace. Differences of opinion as to what is right may be complicated in actual practice by differences of judgment as to the facts. Some may think that they are forced to choose between peace and liberty; others that it is possible by proper action to secure both. Our government exists to ensure that the facts will be judged and the appropriate action decided on by good and prudent men (though not infallible men), and to ensure that the choice of aims and the consideration of their importance will be the work of men who command the confidence of their fellow citizens and who act only after due deliberation and consultation.

Can we be more precise about the duty of the citizens towards their country than in saying that it is the duty of

each to use his power of influencing the government, just as it is his duty to use every other power that he possesses, for the purpose of achieving what he conscientiously considers life's highest objectives? We must each do what we think right and good. The power, through a government which we share in controlling, of making laws which will secure to each citizen what we think his proper share of rights, and of organizing combined efforts to do things which we cannot do singly, is something which we must use to accomplish what we think right. Our fellow citizens will do the same thing and we may find that their views differ from our views and their aims from ours. We should be very tolerant of these differences, if they are genuine; and remember that we are all trying, though in different ways, to reach the same goal. Just as we may call on others, through our common government, to help us in tasks with which they perhaps have little or no sympathy, so we may find that we are called on to help in enterprises which we do not like, or to obey laws which we do not think good. Unless we are required to do something which we believe to be positively wrong, we should comply cheerfully and loyally just as we should wish others to do if we were in the majority.

We share with our fellow citizens a common country, common institutions, common ideas of what is fair and just, and we join with them to promote common purposes. As we realize these things we may develop a very strong spirit of comradeship, of unselfishness, of readiness to sacrifice ourselves to ensure for others these things which we value so highly, or to make their condition better than it has been hitherto. This spirit we call patriotism. We are usually most strongly conscious of it when we are brought into contact with surroundings different from our own, or a different view of life, or different aims. It is then that we realize most strongly how much we have in common with our fellow

citizens. But the idea of competition or antagonism with others is not an essential part of patriotism. Devotion to some, need not be accompanied by ill-will to others, who may be as loyal to their ideals as we to ours. We may wish the good of our country without wishing anything less good to any other country. Freedom from jealousy towards, or dislike of others, is a good state of mind. It is not in any way inconsistent with patriotism, but it is much rarer than patriotism. To love our enemies is a more difficult duty than to love our neighbours and fewer of us accomplish it. And patriotism is really a form of loving our neighbours.

Although patriotism has nothing to do with war, and could exist in its highest forms even though war had become as obsolete as duelling, we can hardly think of the patriotic virtues without going to war for our examples. There are reasons for this. It is easier to be patriotic in time of war than at any other time. A nation at war has a definite aim in view: the defeat of the enemy. Every effort is directed to this end. Each one feels that he and others are acting with exactly the same end in view. Comradeship is at its strongest. The duty before each is plain. He is part of an organization. His task is pointed out to him clearly. He can accept orders and need only give his attention to their intelligent execution. No sacrifice seems too great because the aim to which sacrifices are directed is always in view. Competitive instincts are excited in the highest degree. Under these conditions acts of the greatest heroism may be performed. They may often be performed by persons who are very commonplace in ordinary life. The measure of personal sacrifice may be almost sublime. And the satisfaction of making it may be untold.

In time of peace there is just as much reason for the display of the same devotion. There is as much to be accomplished, and there are things to be done of more unquestion-

able benefit than in war time. And yet the same devotion is not displayed. The same enthusiasm does not exist. The same sacrifices are not made. The reason is plain enough. In peace time there is no single clear national aim in view. Effort cannot be judged by its contribution towards some accepted objective because every one has different ideas of what the objectives are. The duty of the citizen has become primarily one of exercising judgment and discretion. He is no longer told exactly what is expected of him. He distrusts his own judgment. He sees that others disagree with him and oppose him. The spirit of comradeship is replaced by one of competition or struggle. Every one else seems engaged in looking after his private affairs and in seeking his private advantage and a spirit of mutual sacrifice is not so likely to arise. People who hate war may long for the generous comradeship of war time!

If our daily citizenship could have something of this quality it would be richer, more intense, and more enjoyable. The essential condition is a single purpose to which we are all attached, and to which we devote or consecrate ourselves. There is a curious danger, from which countries suffer, that some not very elevated purpose may be chosen by their citizens: national aggrandizement, or national assertion, or national exclusiveness. It is relatively easy to excite these feelings by constantly praising one's own country and finding faults in other countries, or by dwelling on every conflict of interest which exists between one's own country and others. It is relatively hard to call forth the steady devotion to one's country's best interests which constitutes the best patriotism, and it is not easy to be sure or confident that this devotion exists. Dislike or jealousy of other countries and their peoples is, on the other hand, very conspicuous when it exists, and is often taken as a proof of love for, or devotion to, one's own. In this way, through our real and right admiration

for true patriotism, we may drift into tolerating or even approving, in ourselves and others, feelings which we should be ashamed of. We should be proud of devotion to Canada, but should not think that dislike of any other country is part of that devotion.

One of the principal ways in which our feeling for Canada can best express itself is in the subordination not only of our personal interests, but of those of one part or section of the country, to the interests of Canada. We have seen that our population is not homogeneous, that about half consists of English-speaking Canadians, about a quarter of French-speaking Canadians, and a quarter of people who have made Canada their adopted country. Members of each one of these groups must act with fairness and generosity towards the other two; and must treat with respect the things to which the other two are attached. Then there are possible conflicts of interests between different parts of the country arising from economic conditions. The people of one part may be deeply interested in buying machinery or other manufactures as cheaply as possible, and, therefore, in encouraging competition by foreign manufacturers. The people of another part may be deeply interested in obtaining the best prices for the machinery and other things which they manufacture and may feel that foreign competition would deprive them of their means of livelihood. The people of great seaport towns, such as Vancouver, may have an interest in the development of as much foreign trade as possible; the people who rely on selling their produce in Canadian markets may wish foreign trade to be reduced as much as possible by means of the tariff. It is not suggested for a moment that all these different groups should not do their utmost to promote their respective interests. But they should not forget that there is a common interest above them all—that of Canada—which demands a fair settlement of conflicting claims.

The same principles should govern us in our relations with the other nations and communities in the British Empire. There should be the most generous co-operation to promote common interests, and an effort to settle fairly and equitably any conflicts of interests. Within the Empire we have organized consultation and a spirit of confidence in each other which combine to make co-operation easier than between nations which have to rely on the League of Nations, or on diplomatic methods, for the maintenance of their relations with one another. What is still more important is that the community of interest is greater, and the divergence of interest less, between the communities in the Empire than between foreign countries.

Finally, we must never forget that the part which government plays in our lives, though very important, is very limited. The greatest things in life are almost independent of it. Its function is to provide us with opportunities for living a good life. But it remains for us to avail ourselves of those opportunities. Our duties to the nation in which we live are not our only duties, or even our highest duties. They are duties which it is despicable to neglect, but "patriotism is not enough" to make us good men. A little book which has been devoted to explaining our relations to one another in an organized community should in honesty close with a reminder of

"How small of all that human hearts endure,
That part which laws or kings can cause or cure!"

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The aim of government is (a) to make the nation as powerful as possible; (b) to make the nation as rich as possible; (c) to promote the aims and interests of the people, whatever these aims and interests may be; (d) to preserve law and order.

2. The chief duty of the citizen towards the government is (a) to obey it; (b) to defend it; (c) to leave it alone; (d) to use his legitimate powers for influencing it in the way that he believes to be best.

3. Patriotism consists in (a) a dislike of other countries than one's own; (b) a wish that one's own country shall be superior to all others; (c) devotion to one's own country; (d) a combination of (a), (b), and (c).

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. Within a nation we reconcile most of our conflicts of interest through our government True. False.
2. All people base their opinions on belief in the same facts True. False.
3. It is better to be devoted to one's own country than to be jealous of one's neighbours True. False.
4. The greatest things in life can be attained only through our government True. False.

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. What patriotic poetry do you like best? Why?
2. Find some examples of questions of what the government should aim at on which the opinions of the people whom you meet are not the same.
3. To what extent do you think that the majority in any country are entitled to force the minority to comply with their wishes? Does it make any difference if the minority is ignorant and backward? If it consists of newcomers to the country? If it includes many of the best educated people in the country? If it is aboriginal in the country?

CHAPTER XX.

BRITISH AND AMERICAN INSTITUTIONS.

Canadian institutions have been spoken of as distinctively British. What is meant will be made clearer by a comparison with the institutions which exist in the United States. When the British North America Act was prepared, the example and the experience of the United States were utilized in planning out a federal system, and in the provisions relating to federal relationships we find much similarity between the American constitution and our own. But even here important differences are to be found, for our constitution was made nearly a hundred years later than that of the United States, and we tried, by profiting by their experience, to make our constitution more "up to date." In the provisions relating to the exercise of executive and legislative power we shall find very striking differences between the institutions of Canada and those of America.

The American Federation, which originally consisted of thirteen states, now consists of forty-eight states and certain territories. Generally speaking, the American states have reserved far wider powers than have the Canadian provinces. They expressly retain all the powers which have not been specifically entrusted to the federal government, or whose exercise has not been completely forbidden by the constitution. Remember that in Canada all powers not expressly given to the provinces can be exercised by the Dominion, unless they are of a merely provincial nature. Then some very important powers which have been entrusted to the federal government in Canada are exercised in the United States by the governments of the separate states. Each state, for instance, makes its own criminal law, its own laws concerning marriage and divorce, and its own laws concerning

negotiable instruments. The United States has no such power as that of the Canadian government for making laws on any topic which is incidental to the general good government of the country. Finally, the United States has no power of disallowance of state legislation. As in Canada, the courts decide what powers each government is entitled to exercise and treat as *ultra vires* and void any measures whose terms exceed these powers.

Superficially, the general framework of the federal government of the United States is very like our own. The resemblance is to be explained by the circumstance that both were largely modelled on the government of the United Kingdom. But in framing the American constitution the government of the United Kingdom was copied as it was believed to exist in the last half of the eighteenth century and changes were made to correct what were thought of as abuses. The Canadian constitution was designed to be similar in principle to the government of the United Kingdom as it was believed to exist a century later. During the century the constitution of the United Kingdom and the opinions about it had changed greatly. Some of the abuses which the Americans sought to avoid had been removed by a natural evolution. In the eighteenth century it was thought that the British constitution protected the people against tyranny by providing that the different functions of government should be exercised by different people no one of whom should enjoy unlimited power. A century later the British constitution was thought of as entrusting power to men who could be removed if they exercised it badly, but who were to be relied on to make a fair and proper use of the powers with which they were entrusted.

In the American constitution the place of the King as chief of state is taken by the President. The legislative bodies are the Senate, which consists of two members from each

state, and the House of Representatives, in which each state is represented in proportion to its population. Since 1912 the senators have been elected directly by the people of the state from which they come. They hold office for six years and one-third are replaced every two years. The House of Representatives is elected for two years and cannot, like our House of Commons, be dissolved earlier. Each state determines for what areas its representatives are to be elected, and may, if it wishes, treat the whole state as one wide constituency.

The President holds a position very different from that of our King, or of his representative the Governor-General. He is elected for a term of four years and a tradition has grown up that he must not be re-elected more than once. If a vacancy occurs within the four-year term the Vice-President becomes President. The method of election is indirect. The people choose electors who then choose the President and Vice-President. Originally it was thought that the electors would be men of repute who would be entrusted with the duty of exercising an independent judgment. But, in practice, it is definitely known beforehand for whom each elector will vote and the people really consider the candidates for the Presidency when they choose the electors. One very curious consequence of the original system has survived. The electors are apportioned among the states so that each state chooses a number equal to its number of members for the House of Representatives *plus* the number of its senators. These electors are chosen for the state as a whole and will, therefore, all be supporters of the same presidential candidate. The whole voting power of a state is thus given to the majority in that state, however large the minority may be. In time of peace the most important function of the President is that of appointing the heads of the administrative departments, who form what is popularly called his cabinet.

The consent of the senate is necessary for these appointments, but is almost always given as a matter of course. The members of the Cabinet are, like those of the Canadian Cabinet, prominent members of a political party. Unlike the members of our Cabinet, they need not command a majority in the popular chamber of the legislature; nor need they ever have been elected to any office by a popular vote. They must not be members of either Senate or House of Representatives, while, in Canada, a member of the Cabinet is practically always a member of Parliament. Normally the members of the American Cabinet will hold office for the same time as the President who appoints them. During this period the American administration has, therefore, a stability which ours has not. But, on the other hand, an unpopular administration is less likely than with us to be promptly removed from office. The members of the American Cabinet are to be thought of as personal advisers of the President. He is not bound to follow their advice. They have no collective responsibility either to the President or to the legislature. In time of war the powers of the President are very wide, for the constitution makes him commander-in-chief of army and navy.

In connection with a great office such as that of the President a number of difficulties arise, which in Canada we are able to avoid. A man who has been elected by a popular vote has naturally great claims to power and influence. He can claim with reason that he, as much as the legislature, has a mandate from the people. The actual extent of his power and influence will depend largely on his personality, and on his ability to manage other men. There is thus a distinct element of uncertainty in the Government, particularly when a new and untried President is about to assume office. Our whole system of responsible government assumes the existence of a chief of state with formal func-

tions and nominal powers. It is easy to have such a chief of state if he is hereditary, like the King, or appointed, like the Governor-General. It is far more difficult if he owes his position to the express choice of the people in a contest in which his own policies and his own judgment may have been important factors.

The position of an American legislature is quite different from that of a Canadian legislature, since it cannot turn the Executive out of office. The American constitution did not contemplate the exercise of such a power by the legislature nor has the American House of Representatives ever used its power of refusing to pass laws or vote money as a means for acquiring the right of demanding the resignation of an unpopular administration. Nor is it at all likely that it will ever do so, for American opinion would condemn it as seeking to usurp powers entrusted to others. The House of Representatives has thus much less power than our House of Commons. The short term for which it is elected deprives members of the opportunity of organizing united action by an established majority. Membership of the House of Representatives is not the recognized road to a political career, and men of great ability are not very likely to seek election. The American Senate, on the other hand, is more important than ours. It consists of members who are elected, not appointed. It distinctly represents the states in a way in which our senate cannot be said to represent the provinces.* It has the power of refusing its sanction to presidential appointments and in the case of some appointments this power is exercised so as to give the patronage to members of the senate if of the President's political party. In respect of treaties made with foreign countries the senate has very

* With us a certain number of senators must be appointed from each province. But they represent the political views of the party in power in federal politics and not necessarily the views most widely held in the province concerned.

important functions. No treaty can be validly concluded without the consent of a two-thirds majority in the senate. There is no reason for assuming that the administration will command even a simple majority in the senate. The seventeen smallest states might elect thirty-four senators whose votes would prevent the conclusion of a treaty desired by the great bulk of the people in the thirty-one largest states. This arrangement, which is very undemocratic, is defended, like most undemocratic arrangements, on the ground that precautions must be taken against precipitate popular action. Like most undemocratic arrangements, it might lead to a very dangerous political conflict within the country. But hitherto, like many undemocratic arrangements, it has worked to the satisfaction of the people, for the bulk of the American people have never wished to conclude important treaties with foreign countries.

There is some truth in the saying that the American constitution is based on distrust. Each of many bodies may impede action by the others. The President cannot conclude treaties without the consent of two-thirds of the Senate. The Senate and the House of Representatives cannot make laws without the assent of the President, unless they overrule his veto by special majorities. But there are even more sweeping limitations. Certain rights of the people are set out in the constitution and any legislation which would interfere with them is *ultra vires* and invalid. Sometimes both the states and the federal government are forbidden to act; sometimes only the federal government or only the states. These specially protected rights include: freedom of speech, the right peaceably to assemble, the free exercise of religion, the right to bear arms, the right to trial by jury, the right not to have private property taken for public use without just compensation. They are rights which are equally recognized in Canada, and with which our legislature is *trusted* not to

interfere without reasonable cause. That neither the legislatures of our provinces, nor the legislature of the Dominion, have interfered with these rights, in an unjustifiable way, shows that our confidence in them has not been misplaced. It does not, of course, prove that the Americans could have trusted their legislature with equal safety, though very probably they might have done so.

You must not think that these protected rights cannot be interfered with in any way in the United States. They can be dealt with by amendments of the American constitution as freely as they can be dealt with in Canada by legislation. But an amendment of the American constitution is not easy to pass. It must be proposed by a two-thirds vote in both Senate and House of Representatives and ratified by the legislatures of three-fourths of the states.* This requirement is difficult to comply with, but is not a guarantee of wisdom. A campaign for a proposed measure must have a very wide, but not necessarily a rational, appeal. Sometimes an amendment may be carried under emotional influence, or because its full import is not understood. The difficulty of amendment has led to a curious rigidity of the American constitution. While some matters, which the constitution has expressly entrusted to Congress, can be dealt with by ordinary legislation, points which have been dealt with expressly and in unambiguous words in the original constitution are almost impossible to alter. British institutions have changed more in the nineteenth and twentieth centuries than have American institutions, and they remain as ready for change in the twentieth and twenty-first. American institutions are relatively static and may become very old-fashioned. Even to-day no great nation has a constitution as old in its main features as the American. As one would expect, every method of change, which does not

* There is an alternative method which is not used.

involve the difficult process of constitutional amendment, has been exploited to the full. Matters left by the constitution to the legislature have been changed by legislation. Within limits customs and conventions may arise and may be as scrupulously respected as rules of law. Then the courts may decide that a phrase used in the constitution really means something which it was not thought of as meaning when it was first used. For instance, the courts have decided that the grant of any power to Congress carried with it, or *implied*, the grant of all powers necessary, in the judgment of Congress, for its adequate exercise. And they decided that an amendment designed to protect negroes, who had been recently set free from slavery, afforded a like protection to trading companies, or corporations. Our constitution, like the American, is interpreted by the courts. But our courts are more apt to interpret strictly and literally because amendment is not more difficult than ordinary legislation; while the American courts may be at least suspected of decisions inspired in part by a wish to obviate the confusion which might be caused by a strict interpretation.

The government of each state is regulated by its own constitution, which it may alter as it pleases in accordance with the rules contained in it. Each state is required to have a republican form of government. As we have seen, some limitations are put on state legislatures by the constitution of the United States which forbids legislation interfering with certain individual rights. It is usual for the constitution of a state to contain further prohibitions of the same character. No state has adopted what we know as responsible government. It is not unusual to argue that the United States is too large and too populous for the British type of government and that the individual states are too small for it. It is usual for there to be a Governor corresponding to the President and appointing an administration which is

responsible to him alone. The Governor is elected by the people of the state. Then there is likely to be a legislature with two chambers elected for a fixed term. In many states the judges are elected by the people for short terms. This is a device which is thought of with great dislike in countries with British institutions, and which is not used in the federal courts of the United States. We think of the task of deciding what the law is, as a matter of skill which should be undertaken only after the most ample provision against fear or favour of any sort. We want a just rather than a popular decision. And we do not think of the fear of loss of office by a popular vote as likely to conduce to a just decision. But we must remember that conditions in the United States are not the same as with us, and, in particular, that we can always through our legislature alter a law which we dislike.

American states have gone much further than Canadian provinces in experimenting with what is called direct legislation. It is made possible to enact laws by a popular vote in their favour, and it is made possible to secure the submission of proposals for such laws by a petition signed by a large proportion of the voters. Sometimes office-holders can be required to resign on a popular vote taken on a petition of a sufficient number of people. These devices have not, as yet, proved either a great success or a great failure.

In the brief discussion of American institutions which has been undertaken in this chapter there is danger of a false impression having been given. Attention has been paid to the *differences* between our institutions and those of our neighbours. It must not be forgotten that the resemblances are of greater importance. If we had compared both countries with a third country, such as France, or Germany, or Japan, we should have found that Canada and the United States had much in common, and much that distinguished both of them from the third country. In particular, we have

in common our whole treatment of law and the basic principles of English Common Law. But the American constitution is rigid in some respects in which ours is flexible, and action is often cramped where, with us, it is unfettered. We have trusted to our own good sense and honesty of purpose to preserve rights which our neighbours have carefully guaranteed, and we have trusted our public men more freely and without disaster. We are apt to feel that the Americans are unfair to themselves and that they, too, could have done so with impunity; while perhaps they think of us as risking our liberties lightly by maintaining legislatures which could, if so disposed, vote them all away in a few hours!

BEST ANSWER TESTS.

(See the explanation on page 19.)

1. The American Federation consists of (a) twenty-eight; (b) thirty-eight; (c) forty-eight; (d) fifty-eight states.

2. In the American Senate each state has (a) two members; (b) three members; (c) a number of members proportionate to its population; (d) four members.

3. The President is chosen by (a) an absolute majority of all the voters in the United States; (b) a larger number of votes than is received by any competitor; (c) an absolute majority of the voters in a majority of the states; (d) a larger number of votes than any competitor in each of a number of states whose total population is larger than that of the states in which a competitor has secured the largest number of votes.

4. The President's Cabinet is (a) appointed by the President; (b) elected by the Senate; (c) composed of members of the Senate or of the House of Representatives; (d) elected by the people.

5. The President's term of office is (a) one; (b) four; (c) seven; (d) eight years. The term of a senator is (a) two; (b) four; (c) six years; (d) life. The House of Representatives is elected for (a) two; (b) four; (c) six; (d) eight years.

6. The American constitution can be amended by (a) ordinary legislation; (b) the Senate acting by a two-thirds majority; (c) two-thirds of each house of Congress *plus* three-quarters of the state legis-

latures; (d) a unanimous vote of the state legislatures; (e) a vote of the people of the United States.

TRUE FALSE TESTS.

(See the explanation on page 20.)

1. An American state has wider powers than a Canadian province True. False.
2. There is a custom that no man may be elected President more than twice True. False.
3. The consent of a two-thirds majority of the senate is required for all appointments made by the President True. False.
4. The President is bound to act on the advice of his cabinet True. False.
5. All treaties must be ratified by a two-thirds majority in the senate True. False.
6. The constitution of each state is provided for it by the United States True. False.
7. Any law passed by a state legislature may be disallowed within two years by the President of the United States True. False.
8. The Governor of each state is elected by the people of that state True. False.
9. In time of war the President has wider powers than in time of peace True. False.
10. The judges of the federal courts are elected by the people True. False.

COMPLETION TESTS.

(See the explanation on page 20.)

In the United States the chief of state is called the.....
 He is elected for a term of.....years and may be re-elected.....
 Corresponding to our Parliament there is.....,
 which consists of two chambers, the.....and the.....
 The President's advisers are known as the..... They are
 chosen by the.....with the sanction of..... The sanc-
 tion of the same body acting by a majority of.....is required
 for the ratification of treaties.

GENERAL QUESTIONS.

(See the explanation on page 21.)

1. Under what circumstances was the American Constitution drawn up?

2. What changes were made as a result of the American Civil War?

3. Under what circumstances did the United States acquire: (1) Florida; (2) the Louisiana Territory; (3) Texas; (4) California; (5) Oregon; (6) Alaska; (7) the Philippine Islands?

4. Compare the political career of some great American statesman with that of some great Canadian and that of some great English contemporary. Pay attention to (1) the circumstances in which he entered public life; (2) the preparation which he had received for it; (3) the prominence in his life of other activities, such as his profession or literary work; (4) the length of his political career; (5) the nature of his service to his country's interests; (6) the country's feelings towards him.

BIBLIOGRAPHICAL NOTE.

A short list of books is given for the information of teachers or readers who may wish to read in greater detail about some of the topics dealt with in this book.

Up-to-date facts and figures can best be obtained from government publications. Extensive use has been made of:—

The Revised Statutes of British Columbia, 1924.

The Statutes of British Columbia, 1924.

The Sessional Papers for 1924.

It must be remembered that the statutes and sessional papers for subsequent years will serve to keep the information contained in the book up to date. All these publications can be obtained from the King's Printer, Victoria, at prices shown in his price lists. They are accessible at any public library.

For the Dominion the corresponding publications are:—

The Revised Statutes.

The Statutes of Canada for subsequent years.

There is to be another revision in 1927.

The Canadian Sessional Papers are very voluminous, but publications on particular topics can be had very cheaply.

A great deal of interesting information in a very compact form is contained in:—

The Canada Year Book for the current year.

All these books can be obtained from the King's Printer at Ottawa.

While the importance of these government publications cannot be overestimated, their use presupposes some general knowledge. For a simple discussion of the nature of our law and of some of its rules the reader is referred to:—

Geldart: Elements of English Law (Home University Library)
(Williams and Norgate, or Ryerson, Toronto). Approximate
price, 65 cents.

Vinogradoff: Common Sense in Law (the same series, publisher, and price).

For a simple treatment of some of the elementary political ideas the two following books may be useful:—

Jenks: The State and the Nation (J. M. Dent & Co.). Approximate price, \$1.35.

Leacock: Elements of Political Science (Houghton-Mifflin). Approximate price, \$2.25.

For a good discussion of the Canadian Constitution use may be made of:—

Kennedy: The Constitution of Canada (1922) (Oxford University Press). Approximate price, \$4.25.

A clear sketch of the organization of the Empire and of the political status of the units which compose it is given in:—

Keith: The Constitution, Administration, and Laws of the British Empire (W. Collins, London) (1924).

A simple discussion of essentials in Economics may be found in:—

Clay: Economics for the General Reader (Macmillan). Approximate price, \$1.35.

APPENDICES.

APPENDIX I.

THE BRITISH NORTH AMERICA ACT, 1867.

30 VICTORIA, CHAPTER 3.

AN ACT FOR THE UNION OF CANADA, NOVA SCOTIA, AND NEW BRUNSWICK, AND THE GOVERNMENT THEREOF, AND FOR PURPOSES CONNECTED THEREWITH.

[29th March, 1867.]

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in principle to that of the United Kingdom:

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the British Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the Union of other parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

I.—PRELIMINARY.

1. This Act may be cited as the "British North America Act, 1867."

2. The provisions of this Act referring to Her Majesty the Queen extend also to the heirs and successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

II.—UNION.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this Act.

8. In the general census of the population of Canada which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective population of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER.

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

10. The provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the time being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the persons who are to be members of that Council shall be from time

to time chosen and summoned by the Governor-General and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor-General.

12. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor-General with the advice or with the advice and consent of or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

13. The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting by and with the advice of the Queen's Privy Council for Canada.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor-General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the Governor-General such of the powers, authorities, and functions of the Governor-General as the Governor-General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor-General himself of any power, authority, or function.

15. The command in chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER.

17. There shall be one Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

18. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.

19. The Parliament of Canada shall be called together not later than six months after the Union.

20. There shall be a session of the Parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

The Senate.

21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators.

22. In relation to the constitution of the Senate Canada shall be deemed to consist of three divisions,—

(1.) Ontario:

(2.) Quebec:

(3.) The Maritime Provinces, Nova Scotia, and New Brunswick,—

which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four Senators; Quebec by twenty-four Senators; and the Maritime Provinces by twenty-four Senators, twelve thereof representing Nova Scotia, and twelve thereof representing New Brunswick.

In the case of Quebec each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four electoral divisions of Lower Canada specified in Schedule A to chapter 1 of the Consolidated Statutes of Canada.

23. The qualifications of a Senator shall be as follows:—

(1.) He shall be of the full age of thirty years:

(2.) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parlia-

ment of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union :

- (3.) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in fee and common socage, or seised or possessed for his own use and benefit of lands or tenements held in franc-alieu or in rotture, within the Province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages, and encumbrances due or payable out of or charged on or affecting the same :
- (4.) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities :
- (5.) He shall be resident in the Province for which he is appointed :
- (6.) In the case of Quebec he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The Governor-General shall from time to time, in the Queen's name, by Instrument under the Great Seal of Canada, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator.

25. Such persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union.

26. If at any time on the recommendation of the Governor-General the Queen thinks fit to direct that three or six members be added to the Senate, the Governor-General may by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the Senate accordingly.

27. In case of such addition being at any time made, the Governor-General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four Senators, and no more.

28. The number of Senators shall not at any time exceed seventy-eight.

29. A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

30. A Senator may by writing under his hand addressed to the Governor-General resign his place in the Senate, and thereupon the same shall be vacant.

31. The place of a Senator shall become vacant in any of the following cases:—

- (1.) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate:
- (2.) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign Power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign Power:
- (3.) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter:
- (4.) If he is attainted of treason or convicted of felony or of any infamous crime:
- (5.) If he ceases to be qualified in respect of property or of residence: Provided that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the Seat of the Government of Canada while holding an office under that Government requiring his presence there.

32. When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor-General shall by summons to a fit and qualified person fill the vacancy.

33. If any question arises respecting the qualification of a Senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

34. The Governor-General may from time to time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

35. Until the Parliament of Canada otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

The House of Commons.

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.

38. The Governor-General shall from time to time, in the Queen's name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a member of the House of Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the purposes of the election of members to serve in the House of Commons, be divided into electoral districts as follows:—

1.—ONTARIO.

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns enumerated in the First Schedule to this Act, each whereof shall be an electoral district, each such district as numbered in that Schedule being entitled to return one member.

2.—QUEBEC.

Quebec shall be divided into sixty-five electoral districts, composed of the sixty-five electoral divisions into which Lower Canada is at the passing of this Act divided under chapter 2 of the Consolidated Statutes of Canada, chapter 75 of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the twenty-third year of the Queen, chapter 1, or any other Act amending the same in force at the Union, so that each such electoral division shall be for the purposes of this Act an electoral district entitled to return one member.

3.—NOVA SCOTIA.

Each of the eighteen counties of Nova Scotia shall be an electoral district. The County of Halifax shall be entitled to return two members, and each of the other counties one member.

4.—NEW BRUNSWICK.

Each of the fourteen counties into which New Brunswick is divided, including the City and County of St. John, shall be an elec-

toral district. The City of St. John shall also be a separate electoral district. Each of those fifteen electoral districts shall be entitled to return one member.

41. Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them,—namely: The qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces:

Provided that, until the Parliament of Canada otherwise provides, at any election for a member of the House of Commons for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

42. For the first election of members to serve in the House of Commons the Governor-General shall cause writs to be issued by such person, in such form, and addressed to such Returning Officers as he thinks fit.

The person issuing writs under this section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a vacancy in the representation in the House of Commons of any electoral district happens before the meeting of the Parliament, or after the meeting of the Parliament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker.

45. In case of a vacancy happening in the office of Speaker by death, resignation, or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker.

46. The Speaker shall preside at all meetings of the House of Commons.

47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges, and duties of Speaker.

48. The presence of at least twenty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers, and for that purpose the Speaker shall be reckoned as a member.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote.

50. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor-General), and no longer.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be readjusted by such authority, in such manner, and from such time, as the Parliament of Canada from time to time provides, subject and according to the following rules:—

(1.) Quebec shall have the fixed number of sixty-five members:

(2.) There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec (so ascertained):

(3.) In the computation of the number of members for a Province a fractional part not exceeding one-half of the whole number requisite for entitling the Province to a member

shall be disregarded; but a fractional part exceeding one-half of that number shall be equivalent to the whole number:

(4.) On any such readjustment the number of members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one-twentieth part or upwards:

(5.) Such readjustment shall not take effect until the termination of the then existing Parliament.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes—Royal Assent.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by Message of the Governor-General in the session in which such vote, resolution, address, or Bill is proposed.

55. Where a Bill passed by the House of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the Bill for the signification of the Queen's pleasure.

56. Where the Governor-General assents to a Bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within two years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor-General, by Speech or Message to each of the Houses of the Parliament, or by

Proclamation, shall annul the Act from and after the day of such signification.

57. A Bill reserved for the signification of the Queen's pleasure shall not have any force unless and until, within two years from the day on which it was presented to the Governor-General for the Queen's assent, the Governor-General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the assent of the Queen in Council.

An entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each Province there shall be an officer, styled the Lieutenant-Governor, appointed by the Governor-General in Council by Instrument under the Great Seal of Canada.

59. A Lieutenant-Governor shall hold office during the pleasure of the Governor-General; but any Lieutenant-Governor appointed after the commencement of the first session of the Parliament of Canada shall not be removable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by Message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not then within one week after the commencement of the next session of the Parliament.

60. The salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

61. Every Lieutenant-Governor shall, before assuming the duties of his office, make and subscribe before the Governor-General or some person authorized by him oaths of allegiance and office similar to those taken by the Governor-General.

62. The provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the time being of each Province, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant-Governor from time to time

thinks fit, and in the first instance of the following officers, namely: The Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec the Speaker of the Legislative Council and the Solicitor-General.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

65. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice or with the advice and consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the advice of the Executive Council thereof.

67. The Governor-General in Council may from time to time appoint an Administrator to execute the office and functions of Lieutenant-Governor during his absence, illness, or other inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely: Of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

*Legislative Power.**1.—ONTARIO.*

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of one House, styled the Legislative Assembly of Ontario.

70. The Legislative Assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the First Schedule to this Act.

2.—QUEBEC.

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

72. The Legislative Council of Quebec shall be composed of twenty-four members, to be appointed by the Lieutenant-Governor, in the Queen's name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this Act referred to, and each holding office for the term of his life, unless the Legislature of Quebec otherwise provides under the provisions of this Act.

73. The qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

74. The place of a Legislative Councillor of Quebec shall become vacant in the cases, *mutatis mutandis*, in which the place of Senator becomes vacant.

75. When a vacancy happens in the Legislative Council of Quebec by resignation, death, or otherwise, the Lieutenant-Governor in the Queen's name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

76. If any question arises respecting the qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

77. The Lieutenant-Governor may from time to time, by Instrument under the Great Seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

78. Until the Legislature of Quebec otherwise provides, the presence of at least ten members of the Legislative Council, including the

Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

80. The Legislative Assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of Quebec: Provided, that it shall not be lawful to present to the Lieutenant-Governor of Quebec for assent any Bill for altering the limits of any of the electoral divisions or districts mentioned in the Second Schedule to this Act, unless the second and third readings of such Bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such Bill unless an address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC.

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the Union.

82. The Lieutenant-Governor of Ontario and of Quebec shall from time to time, in the Queen's name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission, or employment, permanent or temporary, at the nomination of the Lieutenant-Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say: The offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor-

General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the Union are in force in those Provinces respectively, relative to the following matters, or any of them,—namely: The qualifications and disqualifications of persons to be elected or to sit or vote as members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the respective Legislative Assemblies of Ontario and Quebec:

Provided that until the Legislature of Ontario otherwise provides, at any election for a member of the Legislative Assembly of Ontario for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one session and its first sitting in the next session.

87. The following provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec,—that is to say: The provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting,—as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4.—NOVA SCOTIA AND NEW BRUNSWICK.

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

89. Each of the Lieutenant-Governors of Ontario, Quebec, and Nova Scotia shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such Returning Officer as the Governor-General directs, and so that the first election of member of Assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of Canada for that electoral district.

6.—THE FOUR PROVINCES.

90. The following provisions of this Act respecting the Parliament of Canada,—namely: The provisions relating to Appropriation and Tax Bills, the recommendation of money votes, the assent to Bills, the disallowance of Acts, and the signification of pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant-Governor of the Province for the Governor-General, of the Governor-General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms

of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

- (1.) The public debt and property:
- (2.) The regulation of trade and commerce:
- (3.) The raising of money by any mode or system of taxation:
- (4.) The borrowing of money on the public credit:
- (5.) Postal service:
- (6.) The census and statistics:
- (7.) Militia, military, and naval service, and defence:
- (8.) The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada:
- (9.) Beacons, buoys, lighthouses, and Sable Island:
- (10.) Navigation and shipping:
- (11.) Quarantine and the establishment and maintenance of marine hospitals:
- (12.) Sea-coast and inland fisheries:
- (13.) Ferries between a Province and any British or foreign country or between two Provinces:
- (14.) Currency and coinage:
- (15.) Banking, incorporation of banks, and the issue of paper money:
- (16.) Savings-banks:
- (17.) Weights and measures:
- (18.) Bills of exchange and promissory notes:
- (19.) Interest:
- (20.) Legal tender:
- (21.) Bankruptcy and insolvency:
- (22.) Patents of invention and discovery:
- (23.) Copyrights:
- (24.) Indians, and lands reserved for the Indians:
- (25.) Naturalization and aliens:
- (26.) Marriage and divorce:
- (27.) The Criminal Law, except the constitution of Courts of criminal jurisdiction, but including the procedure in criminal matters:
- (28.) The establishment, maintenance, and management of penitentiaries:

- (29.) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

- (1.) The amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor:
- (2.) Direct taxation within the Province in order to the raising of a revenue for Provincial purposes:
- (3.) The borrowing of money on the sole credit of the Province:
- (4.) The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers:
- (5.) The management and sale of the public lands belonging to the Province and of the timber and wood thereon:
- (6.) The establishment, maintenance, and management of public and reformatory prisons in and for the Province:
- (7.) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals:
- (8.) Municipal institutions in the Province:
- (9.) Shop, saloon, tavern, auctioneer, and other licences in order to the raising of a revenue for Provincial, local, or municipal purposes:
- (10.) Local works and undertakings other than such as are of the following classes:—
 - (a.) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces or extending beyond the limits of the Province:
 - (b.) Lines of steamships between the Province and any British or foreign country:

(c.) Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces:

- (11.) The incorporation of companies with Provincial objects:
- (12.) The solemnization of marriage in the Province:
- (13.) Property and civil rights in the Province:
- (14.) The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts:
- (15.) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section:
- (16.) Generally all matters of a merely local or private nature in the Province.

Education.

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

- (1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union:
- (2.) All the powers, privileges, and duties at the Union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec:
- (3.) Where in any Province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education:

- (4.) In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Agriculture and Immigration.

95. In each Province the Legislature may make laws in relation to agriculture in the Province, and to immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to agriculture in all or any of the Provinces, and to immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to agriculture or to immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—JUDICATURE.

96. The Governor-General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the Courts in

those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor-General shall be selected from the respective Bars of those Provinces.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

100. The salaries, allowances, and pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance, and organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the laws of Canada.

VIII.—REVENUES—DEBTS—ASSETS—TAXATION.

102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor-General in Council until the Parliament otherwise provides.

104. The annual interest of the public debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the second charge on the Consolidated Revenue Fund of Canada.

105. Unless altered by the Parliament of Canada, the salary of the Governor-General shall be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland, payable out of the

Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the public service.

107. All stocks, cash, banker's balances, and securities for money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the Union.

108. The public works and property of each Province, enumerated in the Third Schedule to this Act, shall be the property of Canada.

109. All lands, mines, minerals, and royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province.

111. Canada shall be liable for the debts and liabilities of each Province existing at the Union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the Union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

113. The assets enumerated in the Fourth Schedule to this Act, belonging at the Union to the Province of Canada, shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union eight million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the Union amount to eight million and seven million dollars respectively, they shall respectively receive, by half-yearly payments in advance from the Government of Canada, interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures:—

Ontario	\$ 80,000
Quebec	70,000
Nova Scotia	60,000
New Brunswick	50,000
	<hr/>
	\$260,000

And an annual grant in aid of each Province shall be made, equal to eighty cents per head of the population as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such grants, as against any Province, all sums chargeable as interest on the public debt of that Province in excess of the several amounts stipulated in this Act.

119. New Brunswick shall receive by half-yearly payments in advance from Canada for the period of ten years from the Union an additional allowance of sixty-three thousand dollars per annum; but as long as the public debt of that Province remains under seven million dollars, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of sixty-three thousand dollars.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova

Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor-General in Council.

121. All articles of the growth, produce, or manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

122. The Customs and Excise Laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of Canada.

123. Where Customs duties are, at the Union, leviable on any goods, wares, or merchandises in any two Provinces, those goods, wares, and merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on proof of payment of the Customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs duty as is leviable thereon in the Province of importation.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in chapter 15 of Title 3 of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.

125. No lands or property belonging to Canada or any Province shall be liable to taxation.

126. Such portions of the duties and revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one Consolidated Revenue Fund to be appropriated for the public service of the Province.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any person being at the passing of this Act a member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand addressed to the Governor-

General of the Province of Canada or to the Lieutenant-Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate, shall thereby vacate his seat in such Legislative Council.

128. Every member of the Senate or House of Commons of Canada shall before taking his seat therein take and subscribe before the Governor-General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein take and subscribe before the Lieutenant-Governor of the Province or some person authorized by him, the oath of allegiance contained in the Fifth Schedule to this Act; and every member of the Senate of Canada, and every member of the Legislative Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor-General, or some person authorized by him, the declaration of qualification contained in the same Schedule.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative, and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

130. Until the Parliament of Canada otherwise provides, all officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the Union had not been made.

131. Until the Parliament of Canada otherwise provides, the Governor-General in Council may from time to time appoint such officers

as the Governor-General in Council deems necessary or proper for the effectual execution of this Act.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective records and Journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following officers, to hold office during pleasure, that is to say: The Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of Quebec the Solicitor-General, and may, by order of the Lieutenant-Governor in Council, from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the Legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities, or authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor-General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver-General, by

any law, Statute, or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant-Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the law of the Province of Canada, as well as those of the Commissioner of Public Works.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their union as the Province of Canada.

137. The words "and from thence to the end of the then next ensuing session of the Legislature," or words to the same effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next session of the Parliament of Canada if the subject-matter of the Act is within the powers of the same as defined by this Act, or to the next sessions of the Legislatures of Ontario and Quebec respectively if the subject-matter of the Act is within the powers of the same as defined by this Act.

138. From and after the Union the use of the words "Upper Canada," instead of "Ontario," or "Lower Canada," instead of "Quebec," in any deed, writ, process, pleading, document, matter, or thing, shall not invalidate the same.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the Union had not been made.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its subject-matter requires, under the Great Seal thereof; and from and after the issue of such Proclamation the same and the several matters and things therein proclaimed shall be

and continue of the like force and effect in Ontario or Quebec as if the Union had not been made.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.

142. The division and adjustment of the debts, credits, liabilities, properties, and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

143. The Governor-General in Council may from time to time order that such and so many of the records, books, and documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The Lieutenant-Governor of Quebec may from time to time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

· X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a declaration that the construction of the intercolonial railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement, within six months after the Union, of a railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such terms and conditions in each case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of four members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of Senators shall be seventy-six, and their maximum number shall be eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

APPENDIX II.

TERMS OF UNION.

AT THE COURT AT WINDSOR,

THE 16TH DAY OF MAY, 1871.

PRESENT :

The QUEEN'S Most Excellent Majesty,	
His Royal Highness Prince ARTHUR,	
Lord Privy Seal,	Lord Chamberlain,
Earl Cowper,	Mr. Secretary Cardwell,
Earl of Kimberley,	Mr. Ayrton.

Whereas by the "British North America Act, 1867," provision was made for the Union of the Provinces of Canada, Nova Scotia, and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that Colony into the said Union on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act; and it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland :

And whereas by Addresses from the Houses of the Parliament of Canada and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her most Honourable Privy Council, under section 146 of the hereinbefore recited Act, to admit British Columbia into the Dominion of Canada, on the terms and conditions set forth in the said Addresses :

And whereas Her Majesty has thought fit to approve of the said terms and conditions, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, that from and after the twentieth day of July, 1871, the

said Colony of British Columbia shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses. And, in accordance with the terms of the said Addresses relating to the electoral districts in British Columbia for which the first election of members to serve in the House of Commons of the said Dominion shall take place, it is hereby further ordered and declared that such electoral districts shall be as follows:—

“New Westminster District” and the “Coast District,” as defined in a public notice issued from the Lands and Works Office in the said Colony on the fifteenth day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of clause 39 of the “Mineral Ordinance, 1869,” shall constitute one district, to be designated “New Westminster District,” and return one member:

“Cariboo District” and “Lillooet District,” as specified in the said public notice, shall constitute one district, to be designated “Cariboo District,” and return one member:

“Yale District” and “Kootenay District,” as specified in the said public notice, shall constitute one district, to be designated “Yale District,” and return one member:

Those portions of Vancouver Island known as “Victoria District,” “Esquimalt District,” and “Metchosin District,” as defined in the official maps of those districts which are in the Land Office, Victoria, and are designated respectively “Victoria District Official Map, 1858,” “Esquimalt District Official Map, 1858,” and “Metchosin District Official Map, A.D. 1858,” shall constitute one district, to be designated “Victoria District,” and return two members:

All the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island, shall constitute one district, to be designated “Vancouver Island District,” and return one member.

And the Right Honourable Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) ARTHUR HELPS.

TERMS OF UNION.

SCHEDULE. (*Part.*)

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia, not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments in advance, from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance; such grant of 80 cents per head to be augmented in proportion to the increase in population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication, between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The Postal and Telegraphic Services;
- E. Protection and encouragement of fisheries;
- F. Provision for the Militia;
- G. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospitals, including a marine hospital at Victoria;
- H. The Geological Survey;
- I. The Penitentiary.

And such further charges as may be incident to and connected with the services which, by the "British North America Act, 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When Customs and excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandises in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandises may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or into either of those Provinces from British Columbia, on proof of payment of the Customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs or excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the Naval Station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia, in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and, further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway, throughout its entire length in British Columbia (not to exceed, however, twenty (20) miles on each side of said line), as may be appropriated for the same purpose by the Dominion Government from the public lands of the North-west Territories and the Province of Manitoba: Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first-class graving-dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians, on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the executive authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of Responsible Government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty, by and with the advice of Her most Honourable Privy Council, may appoint (on Addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of section 146 of the "British North America Act, 1867"), and British Columbia may in its Address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

APPENDIX III.

THE BRITISH NORTH AMERICA ACT, 1871.

34-35 VICTORIA, CHAPTER 28.

AN ACT RESPECTING THE ESTABLISHMENT OF PROVINCES IN THE
DOMINION OF CANADA.

[29th June, 1871.]

Whereas doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories ad-

mitted, or which may hereafter be admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as "The British North America Act, 1871."

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

5. The following Acts passed by the said Parliament of Canada, and intituled respectively,—“An Act for the temporary government of Rupert's Land and the North Western Territory when united with Canada”; and “An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of Manitoba,” shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen's name, of the Governor-General of the said Dominion of Canada.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establish-

ing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

APPENDIX IV.

THE PARLIAMENT OF CANADA ACT, 1875.

38-39 VICTORIA, CHAPTER 38.

AN ACT TO REMOVE CERTAIN DOUBTS WITH RESPECT TO THE POWERS OF THE PARLIAMENT OF CANADA UNDER SECTION EIGHTEEN OF THE "BRITISH NORTH AMERICA ACT, 1867."

[19th July, 1875.]

Whereas by section eighteen of the "British North America Act, 1867," it is provided as follows: "The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof":

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Section eighteen of the "British North America Act, 1867," is hereby repealed, without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed.

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time

defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.

2. The Act of the Parliament of Canada passed in the thirty-first year of the reign of Her present Majesty, chapter twenty-four, intituled "An Act to provide for oaths to witnesses being administered in certain cases for the purposes of either House of Parliament," shall be deemed to be valid, and to have been valid as from the date at which the Royal Assent was given thereto by the Governor-General of the Dominion of Canada.

3. This Act may be cited as the "Parliament of Canada Act, 1875."

APPENDIX V.

THE BRITISH NORTH AMERICA ACT, 1886.

49-50 VICTORIA, CHAPTER 35.

AN ACT RESPECTING THE REPRESENTATION IN THE PARLIAMENT OF CANADA OF TERRITORIES WHICH FOR THE TIME BEING FORM PART OF THE DOMINION OF CANADA, BUT ARE NOT INCLUDED IN ANY PROVINCE.

[25th June, 1886.]

Whereas it is expedient to empower the Parliament of Canada to provide for the representation in the Senate and House of Commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

2. Any Act passed by the Parliament of Canada before the passing of this Act for the purpose mentioned in this Act shall, if not disallowed by the Queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in Her Majesty's name, of the Governor-General of Canada.

It is hereby declared that any Act passed by the Parliament of Canada, whether before or after the passing of this Act, for the purpose mentioned in this Act or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of Senators or the number of Members of the House of Commons specified in the last-mentioned Act is increased by the number of Senators or of Members, as the case may be, provided by any such Act of the Parliament of Canada for the representation of any provinces or territories of Canada.

3. This Act may be cited as the British North America Act, 1886.

This Act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

APPENDIX VI.

THE BRITISH NORTH AMERICA ACT, 1907.

7 EDWARD VII., CHAPTER 11.

AN ACT TO MAKE FURTHER PROVISION WITH RESPECT TO THE SUMS TO BE PAID BY CANADA TO THE SEVERAL PROVINCES OF THE DOMINION.

[9th August, 1907.]

Whereas an address has been presented to His Majesty by the Senate and Commons of Canada in the terms set forth in the Schedule to this Act:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1.) The following grants shall be made yearly by Canada to every Province, which at the commencement of this Act is a Province of the Dominion, for its local purposes and the support of its Government and Legislature:—

(a.) A fixed grant—

Where the population of the Province is under one hundred and fifty thousand, of one hundred thousand dollars;

Where the population of the Province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars;

Where the population of the Province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars;

Where the population of the Province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars;

Where the population of the Province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars;

Where the population of the Province exceeds one million five hundred thousand, of two hundred and forty thousand dollars; and

(b.) Subject to the special provisions of this Act as to the Provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the Province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

(2.) An additional grant of one hundred thousand dollars shall be made yearly to the Province of British Columbia for a period of ten years from the commencement of this Act.

(3.) The population of a Province shall be ascertained from time to time in the case of the Provinces of Manitoba, Saskatchewan, and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those Provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other Province by the last decennial census for the time being.

(4.) The grants payable under this Act shall be paid half-yearly in advance to each Province.

(5.) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several Provinces of the Dominion under the provisions of section 118 of the "British North America Act, 1867," or of any Order in Council

establishing a Province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.

(6.) The Government of Canada shall have the same power of deducting sums charged against a Province on account of the interest on public debt in the case of the grant payable under this Act to the Province as they have in the case of the existing grant.

(7.) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any Province any grant which is payable to that Province, other than the existing grant for which the grant under this Act is substituted.

(8.) In the case of the Provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the Provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act; and if it is found on any decennial census that the population of the Province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

2. This Act may be cited as the "British North America Act, 1907," and shall take effect as from the first day of July, 1907.

SCHEDULE.

TO THE KING'S MOST EXCELLENT MAJESTY:

MOST GRACIOUS SOVEREIGN,

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, humbly approach Your Majesty for the purpose of representing that it is expedient to amend the scale of payments authorized under section 118 of the Acts of the Parliament of the United Kingdom of Great Britain and Ireland, commonly called the "British North America Act, 1867," or by or under any terms or conditions upon which any other Provinces were admitted to the Union, to be made by Canada to the several Provinces of the Dominion for the support of their Governments and Legislatures by providing that—

A. Instead of the amounts now payable, the sums hereafter payable yearly by Canada to the several Provinces for the support of their Governments and Legislatures be according to population, and as follows:

- (a.) Where the population of the Province is under 150,000, \$100,000;
- (b.) Where the population of the Province is 150,000, but does not exceed 200,000, \$150,000;
- (c.) Where the population of the Province is 200,000, but does not exceed 400,000, \$180,000;
- (d.) Where the population of the Province is 400,000, but does not exceed 800,000, \$190,000;
- (e.) Where the population of the Province is 800,000, but does not exceed 1,500,000, \$220,000;
- (f.) Where the population of the Province exceeds 1,500,000, \$240,000.

B. Instead of an annual grant per head of population now allowed, the annual payment hereafter be at the same rate of eighty cents per head, but on the population of each Province, as ascertained from time to time by the last decennial census, or in the case of the Provinces of Manitoba, Saskatchewan, and Alberta respectively, by the last quinquennial census or statutory estimate, until such population exceeds 2,500,000, and at the rate of sixty cents per head for so much of said population as may exceed 2,500,000.

C. An additional allowance to the extent of one hundred thousand dollars annually be paid for ten years to the Province of British Columbia.

D. Nothing herein contained shall in any way supersede or affect the terms special to any particular Province upon which such Province became part of the Dominion of Canada, or the right of any Province to the payment of any special grant heretofore made by the Parliament of Canada to any Province for any special purpose in such grant expressed.

WE pray that Your Majesty may be graciously pleased to cause a measure to be laid before the Imperial Parliament at its present session repealing the provisions of section 118 of the "British North America Act, 1867," aforesaid, and substituting therefor the scale of payments above set forth, which shall be a final and unalterable settlement of the amounts to be paid yearly to the several Provinces of the Dominion for their local purposes and the support of their Governments and Legislatures.

Such grants shall be paid half-yearly in advance to each Province, but the Government of Canada shall deduct from such grants as against any Province all sums chargeable as interest on the public

debt of that Province in excess of the several amounts stipulated in the said Act.

All of which we humbly pray Your Majesty to take into your favourable and gracious consideration.

(Signed.) R. DANDURAND,

Speaker of the Senate.

(Signed.) R. F. SUTHERLAND,

Speaker of the House of Commons.

Senate and House of Commons,

Ottawa, Canada, 26th April, 1907.

APPENDIX VII.

THE BRITISH NORTH AMERICA ACT, 1915.

5-6 GEORGE V., CHAPTER 45.

AN ACT TO AMEND THE "BRITISH NORTH AMERICA ACT, 1867."

[19th May, 1915.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1.) Notwithstanding anything in the "British North America Act, 1867," or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament:—

- (i.) The number of Senators provided for under section 21 of the "British North America Act, 1867," is increased from seventy-two to ninety-six:
- (ii.) The divisions of Canada in relation to the constitution of the Senate provided for by section 22 of the said Act are increased from three to four, the fourth division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows: Ontario by twenty-four Senators; Quebec by twenty-four Senators; the Maritime Provinces and Prince Edward Island by twenty-four Senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof

representing Prince Edward Island; the Western Provinces by twenty-four Senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:

- (iii.) The number of persons whom by section 26 of the said Act the Governor-General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada:
- (iv.) In case of such addition being at any time made, the Governor-General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four divisions until such division is represented by twenty-four Senators and no more:
- (v.) The number of Senators shall not at any time exceed one hundred and four:
- (vi.) The representation in the Senate to which by section 147 of the "British North America Act, 1867," Newfoundland would be entitled, in case of its admission to the Union, is increased from four to six members, and in case of the admission of Newfoundland into the Union, notwithstanding anything in the said Act or in this Act, the normal number of Senators shall be one hundred and two, and their maximum number one hundred and ten:
- (vii.) Nothing herein contained shall affect the powers of the Canadian Parliament under the "British North America Act, 1886."

(2.) Paragraphs (i) to (vi), inclusive, of subsection (1) of this section shall not take effect before the termination of the now existing Canadian Parliament.

2. The "British North America Act, 1867," is amended by adding thereto the following section immediately after section 51 of the said Act:—

"51A. Notwithstanding anything in this Act, a Province shall always be entitled to a number of members in the House of Commons not less than the number of Senators representing such Province."

3. This Act may be cited as the "British North America Act, 1915," and the British North America Acts, 1867 to 1886, and this Act may be cited together as the "British North America Acts, 1867 to 1915."

INDEX.

	CHAP.	PAGE.
Ability to pay	VII.	90
Activities, organized	V.	55
Acts—		
British North America Act (U.K.)	III., X.	30, 115
Canadian Nationality Act (Can.)	XVI.	181
Constitution Act (B.C.)	X.	118
Manitoba Act	IX.	107
Minimum Wage Act (B.C.)	V.	60
Municipal Act (B.C.)	VI.	67
Parliament Act (U.K.)	XI.	134
Workmen's Compensation Act (B.C.)	V.	61
Administration of laws	III.	33
Advice	XI.	127
Agriculture	V., XV.	63, 173
Department of	V.	63
Aims of Government	XIX.	213
Air Force, Royal Canadian	XVI.	185
Aliens	XVI.	181
Status of	XVI.	181
Ambassadors	XVI.	183
American institutions	XX.	221
Anarchy	II.	25
Appeal	XIII.	158
Appointment of judges	VIII.	97
Arbitration	XVI.	184
Arrest	XIII.	153
Assault	IV.	50
Assessment roll	VI.	76
Assize of Clarendon	XIII.	155
Bail	XIII.	153
Banks	XII.	140
Double liability of shareholders	XII.	142
Government supervision of	XII.	141
Nature of	XII.	140
Bank-notes	XII.	141
Government control of	XII.	142

	CHAP.	PAGE.
Bankruptcy	XII.	143
Battery	IV.	50
Benefit principle in taxation.....	VII.	89
Bibliographical note		233
Bill of exchange	XII.	140
Board—		
Minimum Wage	V.	60
Workmen's Compensation	V.	61
Board of Control	VI.	78
Board of Health, Provincial	V.	58
Boards of Health, Local	V.	59
Boards of Management	XIV.	163
Board of Railway Commissioners	XIV.	167
Board of School Trustees	V.	56
Borrowing—		
Municipal, objects	VI.	73
Municipal, supervision of	VI.	74
Provincial, objects	VII.	87
Borrowing and taxation	VII.	88
British and American institutions	XX.	221
British Columbia—		
Government	III.	30
Natural resources	IX.	110
Political organization	III.	35
Supreme Court of	VIII.	98
University of	V.	56
British Empire	XVIII.	201
Unity of	XVIII.	203
Sectional and general interests in	XIX.	219
British India	XVIII.	204
British Indians in dominions	XVIII.	205
British nationality	XVI.	180
British North America Act	III., X.	30, 115
Amendment	X.	115
Preparation of	X.	115
Text of	App.	235
British preference	XVII.	197
Not a bargain	XVII.	197
British subjects	XVI.	180
Bureau of Statistics	XV.	175

INDEX.

III.

	CHAP.	PAGE.
Business organization	VI.	80
By-laws—		
Municipal	VI.	69
Municipal money	VI.	69
Cabinet	X.	122
Cabinet and Governor-General	XI.	127
Cabinet and party	XI.	129
Cabinet in the United States	XX.	223
Canada, general and sectional interests	XIX.	218
Canada and the United States compared	XX.	221
Canadian nationality	XVI.	181
Canadian Nationality Act	XVI.	181
Canadian treaties	XVI.	184
Candidates	III.	34, 35
Caucus	XI.	127
Challenges	XIII.	156
Charter, City of Vancouver	VI.	78
Citizens, duties of	XIX.	214
City municipality	VI.	67, 68
Civil Law	IV.	43
Powers of Province	IV.	45
Civil Service, Provincial	III.	33
Civil wrongs, or torts	IV.	50
Coins	XII.	138
Collateral security	XII.	141
Colonies, Crown	XVIII.	205
Commercial Law	XII.	138
Commissioners of Police	VI.	71
Commitment for trial	XIII.	155
Common Law	IV.	43
English, in other provinces, in the United States, and in other dominions	IV.	45
Joint-stock companies	VI.	81
Origins of	IV.	44
Common undertakings	II.	24
Commons, House of	X.	120
Company—		
Joint-stock	VI.	81
Limited liability	VI.	81
Confederation	III.	30

	CHAP.	PAGE.
Conference, Imperial	XVIII.	208
No compulsory unity	XVIII.	208
Difficulties in case of emergency	XVIII.	209
Confessions	XIII.	158
Conservation	V.	62
Consideration	IV.	48
Constituencies, provincial	III.	32
Constitution	II.	25
Object of	II.	26
Constitution of Canada	X.	115
Constitution of the United States	XX.	221
Amendment of	XX.	227
Constitutional conventions	XI.	128, 129
Constitutional Law	II.	25
Constitutionality of laws	VIII.	101
Consuls	XVI.	183
Contracts	IV.	48
Enforcement of	IV.	48
Unfair	V.	59
Conventions	XI.	129
Conversion	IV.	51
Copyright	XII.	144
Corporations, trading	VI.	81
Council—		
Executive	III.	34, 36
Municipal	VI.	68
Municipal, functions of	VI.	69
Privy	X.	122, 123
Privy (of Canada)	X., XI.	122, 127
Council of Public Instruction	V.	56
County	VIII.	98
County Court	VIII.	98
Court of Law	VIII.	96
Court of Revision	VI.	69
Court—		
County	VIII.	98
Small Debts	VIII.	99
Supreme (of British Columbia)	VIII.	98
Supreme (of Canada)	X.	122
Court of Appeal	VIII.	99

INDEX.

V.

	CHAP.	PAGE.
Crimes	IV., XIII.	52, 148
Crime and wickedness	XIII.	149
Criminal Law	XIII.	148
Criminal procedure	XIII.	152
Crown colonies	XVIII.	205
Damages	IV.	48
Debt, war	XVII.	189
Department of Agriculture	V.	63
Department of Education	V.	56
Department of External Affairs	XVI.	185
Department of Industries	V.	63
Department of Labour	V.	60
Department of Militia and Defence	XVI.	185
Departments of the public service.....	III.	33
Dependencies	XVIII.	205
Deposits as loans	XII.	142
Diagrams		40, 136
Direct legislation (in the United States)	XX.	229
Direct taxes	VII.	86
Direct and indirect taxes	VII.	86, 87
Directors	VI.	82
Disallowance of Canadian legislation	X.	119
Disallowance of provincial legislation	IX.	111
Discretion of Judges	XIII.	151
Disputes between nations	XVI.	184
District municipalities	VI.	68
Division of powers (in the United States)	XVI.	221
Dominion and provinces	III.	30
Dominion Government, working of	XI.	126
Double liability	XII.	142
Duties of citizens	XIX.	214
Economics	I.	16
Education	V.	55
Department of	V.	56
Minister of	V.	56
Separate schools	IX.	108
Superintendent of	V.	56
Eight-hour day	V.	60
Election of the President of the United States	XX.	223

	CHAP.	PAGE.
Elections—		
Municipal	VI.	68
Provincial	III.	32
Employment	XV.	176
English Law—		
Changes in	IV.	45
In other provinces, in the United States, and in other dominions	IV.	45
Introduction of	IV.	43
Equality in taxation	VII.	89
Equalization of wealth as an aim in taxation	VII.	91
Ethics	I.	17
Evidence	XIII.	154
Circumstantial	XIII.	159
Hearsay	XIII.	159
Evidence of character	XIII.	159
Excise duties	XVII.	198
Executive, irresponsible in the United States	XX.	224
Executive Council	III.	34, 36
Responsibility of	III.	37
Executive Council and party organization	III.	37
Expenditure of the Province	VII.	85
External Affairs, Department of	XVI.	185
Fact and law	VIII.	100
Fairness in procedure	XIII.	158
Federal Government in the United States	XX.	221
Federalism, difficulties of	XV.	174
Feeble-minded	IV.	47
Finance—		
Dominion	XVII.	189
Municipal	VI.	72
Provincial	VII.	85
Fisheries	XV.	172
Foreign relations	XVI.	182, 183
Funds, sinking—		
Municipal	VI.	75
Provincial	VII.	88
General and sectional interests in Canada	XIX.	218
General and sectional interests in the Empire	XIX.	219
Geographical boundaries	II.	22

INDEX.

VII.

	CHAP.	PAGE.
Gold	XII.	139
Gold reserves	XII.	139
Government	II.	23
Aims of	XIX.	213
Dominion, framework of	X.	115
Dominion, working of	XI.	126
Limits to importance of	XIX.	219
Local	VI.	66
Provincial, working of	III.	33
Government action	V.	55
Government and Opposition	III.	36
Government based on trust	XI.	129
Government ownership	XIV.	162, 163
Governor-General	X.	117
Grand jury	XIII.	155
Health—		
Department of (Canada)	XV.	174
Local Boards of	V.	59
Provincial Board of	V.	58
Public	V.	58
Hearsay evidence	XIII.	159
History	I.	18
Home, Provincial	V.	62
Honesty, political	III.	38
House of Commons	X.	120
Responsibility of Ministers to	XI.	128
House of Commons and Senate, conflict of	XI.	132, 133
House of Representatives (United States)	XX.	223
Immigrant minorities	IX.	109
Immigration—		
Economic competition	XV.	171
Exclusion of undesirables	XV.	171
Powers of Dominion and provinces	XV.	172
Imperial conferences	XVIII.	208
Imperial treaties	IX.	110
Implied powers (United States)	XX.	228
Improvements, taxes on	VI.	76
Incorporated societies	VI.	82
Incorporation of municipalities	VI.	67

	CHAP.	PAGE.
India—		
British	XVIII.	204
Central Government of	XVIII.	204
Civil Service of	XVIII.	205
Provinces of	XVIII.	204
Indian Empire	XVIII.	204
Indians, British, in the dominions	XVIII.	205
Indians (North American)	XV.	173
Indictment	XIII.	156
Indigent, relief of	V.	61
Indirect taxation, attractions of	XVII.	190
Industries, Department of	V.	63
Infants	IV.	47
Information, laying an	XIII.	153
Inheritance	IV.	46
Inquests	VI.	71
Insolvency	XII.	143
Inspector of Municipalities	VI.	78
Interests, conflicts of	II.	23
International Law	XVI.	179
Interpretation of statutes	VIII.	100
Joint-stock companies	VI.	81
Judges	VIII.	96
Appointment of	VIII.	97
Discretion of	XIII.	151
Elective (United States)	XX.	229
Tenure of office of	VIII.	98
Judicial Committee of Privy Council	X.	122, 123
Jurisprudence	I.	16
Jury	VIII.	97
Grand	XIII.	155
Petit	XIII.	156
Justice in taxation, tests of	VII.	89
Justices of the Peace	VIII.	99
Juvenile offenders	XIII.	158
King	III.	31
Can do no wrong	IV.	51
Part in Government of Canada	X.	116-118
King's Privy Council for Canada	X.	122, 127
Kingship in the Empire	XVIII.	202

INDEX.

IX.

	CHAP.	PAGE.
Labour—		
Department of (B.C.)	V.	60
Distribution of	XV.	176
Minister of (Canada)	XV.	174
Statute	VI.	77
Labour Gazette	XV.	174
Labour legislation	V.	60
Land—		
Law concerning	IV.	46
Taxes on	VI.	76
Language	IX.	106
British North America Act	IX.	107
Manitoba Act	IX.	107
Languages, inconvenience of dual	IX.	108
Languages in schools	IX.	108
Laying an information	XIII.	153
Law	II.	23
Civil	IV.	43
Commercial	XII.	138
Common	IV.	43
Constitutional	II.	25
Criminal	XIII.	148
English, introduction of	IV.	43
International	XVI.	179
Questions of	VIII.	100
Statute	IV.	43
Law and fact	VIII.	100
Laws	II.	23
Administration of	III.	33
Constitutionality of	VIII.	101
Purpose of	II.	23
Leadership	XI.	130
Leadership of the Opposition	III., XI.	36, 132
League of Nations	XVIII.	210
Legal tender	XII.	139
Legislation—		
Direct (United States)	XX.	229
Labour	V.	60
Science of	I.	17
Uniformity of	IV.	52

	CHAP.	PAGE.
Legislative Assembly	III.	31
Libel	IV.	50
Liberty and the protection of society	XIII.	148
Licences	VI.	76
Lieutenant-Governor	III., X.	34, 117
Powers of	III.	34
Limited companies	VI.	81
Limits to importance of Government	XIX.	219
Local Boards of Health	V.	59
Local government	VI.	66
Majorities, rights of	XIX.	215
Malta	XVIII.	205
Mandates	XVIII.	206
Manitoba, natural resources	IX.	110
Manitoba Act	IX.	107
Militia	XVI.	185
Militia and Defence, Department of	XVI.	185
Minimum Wage Board	V.	60
Minister of Agriculture (B.C.)	}	40-41
Minister of Education (B.C.)		
Minister of Finance (B.C.)		
Minister of Industries (B.C.)		
Minister of Labour (B.C.)		
Minister of Lands (B.C.)		
Minister of Mines (B.C.)		
Minister of Public Works (B.C.)	}	40-41
Minister of Railways (B.C.)		
Minister without portfolio	IX.	106
Ministers—		
Responsible	III.	33
Responsibility to the House of Commons	XI.	126
Ministers of the Crown	III.	33-34
Minorities—		
Immigrant	IX.	109
Linguistic	IX.	107
Racial	IX.	106, 109
Religious	IX.	108
Money	XII.	138
Nature of	XII.	138
Paper	XII.	139

INDEX.

XI.

	CHAP.	PAGE.
Money by-laws	VI.	71
Municipal Act	VI.	67
Municipal by-laws	VI.	69
Municipal Council	VI.	68, 69
Municipal elections	VI.	68
Municipal finance	VI.	72
Municipal institutions and local government	VI.	66
Municipal poll-tax	VI.	77
Municipal revenue	VI.	72
Municipality	VI.	67
City	VI.	67
District	VI.	67
Incorporation of	VI.	67
Powers of	VI.	70
Village	VI.	67, 78
Municipalities—		
Inspector of	VI.	78
Provincial supervision of	VI.	78
Nation	II., XVI.	22, 179
Factors that make a	II.	22
National development	XV.	169
National enterprises	XIV.	162
Nationality	XVI.	180
Nationals	XVI.	179
Native states (British India)	XVIII.	204
Natural-born British subjects	XVI.	180
Natural increase of population in Canada	XV.	169
Natural resources—		
Conservation of	V.	62
Powers of Dominion and provinces	XV.	172
Natural resources of Alberta, British Columbia, Mani- toba, and Saskatchewan	IX.	110
Naturalization	XVI.	180, 181
Navy, Royal Canadian	XVI.	185
Negotiation of treaties	XVI.	183
New provinces	IX.	112
Newfoundland	IX.	112
Normal schools	V.	57

	CHAP.	PAGE.
Notes	XII.	139
Bank	XII.	141
Promissory	XII.	140
Nova Scotia, second chamber	IX.	106
Nuisance	IV.	51
Offenders, juvenile	XIII.	158
Offenders against provincial laws	XIII.	158
Opposition	III.	36
Leadership of	III., XI.	36, 132
Organization, business	VI.	80
Organization of common activities	V.	55
Paper money	XII.	139
Pardons	XIII.	158
Parliament Act	XI.	134
Parliament of Canada	VIII., X.	103, 116
Parliament of the United Kingdom	VIII.	102
Legal supremacy of	XVIII.	202
Parties, political	III.	35
Partnership	VI.	80
Party organization	XI.	130
Party organization and Executive Council	III.	37
Party organization and sectional interests	XI.	131
Patents	XII.	144
Patriotism in peace	XIX.	216
Patriotism in war	XIX.	216
Peace officer	XIII.	153
Pensions, widows'	V.	62
Petit jury	XIII.	156
Personal relations	IV.	47
Police	VI.	71
Commissioners of	VI.	71
Political honesty	III.	38
Political parties	III.	35
Politics	I.	16, 17
Poll-tax, municipal	VI.	77
Population—		
Composition of	XV.	175
Natural increase of	XV.	169
Is greater population desirable?	XV.	169
Post Office	XIV.	162

INDEX.

XIII.

	CHAP.	PAGE.
Powers of municipalities	VI.	70
Precedent	IV., VIII. 44, 45; 96, 97	
Preference, British	XVIII.	197
Preliminary hearing	XIII.	154
President of the United States	XX.	222
Election	XX.	223
Prevention as object of punishment	XIII.	150
Premier	III.	34
Prime Minister of Canada	XI.	132
Prime Minister, provincial	III.	34
Primitive peoples	XVIII.	207
Private enterprise	XIV.	164
Privy Council, Judicial Committee of	X. 122, 123	
Privy Council for Canada	X. 122, 127	
Promissory notes	XII.	140
Procedure—		
Criminal	XIII.	152
Rules of	III.	35
Procedure in Courts	VIII.	97
Protection, arguments for and against	XVII. 192, 193	
Protection of citizens abroad	XVI. 179, 186	
Protectorates	XVIII.	206
Province of British Columbia and its Government	III.	30
Provinces—		
Differences and similarities	IX.	105
New	IX.	112
Provinces and Dominion	III., IX. 30, 110	
Provincial Board of Health.....	V.	58
Provincial control of municipalities	VI.	78
Provincial finance	VII.	85
Provincial Home	V.	62
Provincial legislation, disallowance and reservation of.....	IX.	111
Provincial Legislature	VIII. 101-103	
Provincial subsidies	XVII.	191
Public health	V.	58
Public Instruction, Council of	V.	56
Public services, departments of	III.	33
Public works	XIV.	162
Punishment, objects of	XIII. 149, 150	

	CHAP.	PAGE.
Qualifications of voters—		
Municipal	VI.	68
Provincial	III.	32
Quebec, second chamber	IX.	106
Questions of law	VIII.	100
Race	IX.	106
Railway, Board of Commissioners	XIV.	167
Railway rates	XIV.	166
Railways	XIV.	165
Dominion and provincial authority	XIV.	165
Ratification of treaties	XVI.	183, 184
Redemption fund	XII.	141
Reformation as object of punishment	XIII.	151
Regulation of trades and professions	V.	55
Relations, personal	IV.	47
Reliance on Great Britain and the United States	XVI.	186
Relief of indigent	V.	61
Religion	IX.	108
Remedial laws	IX.	108
Repayment of war debt	XVII.	189
Representation	III.	32
Representatives, House of (United States)	XX.	223
Reservation of Canadian legislation	X.	119
Reservation of provincial legislation	IX.	112
Resources, conservation of natural	V.	62
Responsible Ministers	III.	33
Responsibility—		
Executive Council to Legislative Assembly	III.	37
Member to electors	III.	32
Ministers to House of Commons	XI.	128
Retribution as object of punishment	XIII.	149
Revenue—		
Dominion	XV.	189
Municipal	VI.	72
Provincial	VII.	92, 93
Revised Statutes	IV.	43
Revision, Court of	VI.	69
Rhodesia	XVIII.	205
Rights, guaranteed (United States)	XX.	226
Rights of majorities	XIX.	215

INDEX.

XV.

	CHAP.	PAGE.
Rules of procedure	III.	35
Saskatchewan, natural resources	IX.	110
School trustees	V.	56
Schools—		
Public	V.	55
Normal	V.	57
Seal	IV.	48
Sectional interests and party organization	XI.	131
Sectional interests in Canada	XIX.	218
Sectional interests in the British Empire	XIX.	219
Self-government—		
Advantages and difficulties of	II.	26, 27
Local	VI.	66
Senate (United States)	XX.	222, 225
Senate of Canada	X.	120
Uses of	XI.	133
Senate of Canada and House of Commons.....	XI.	132, 133
Senators—		
Additional	XI.	133
Qualifications of	X.	120
Sentence	XIII.	158
Separate schools	IX.	108
Shareholders	VI.	82
Shareholders in banks, double liability of	XII.	142
Shares	VI.	82
Sinking funds—		
Municipal	VI.	75
Provincial	VII.	88
Slander	IV.	50
Small Debts Court	VIII.	99
Social legislation	XV.	173
Social relations based on confidence.....	I.	15
Social sciences	I.	15
Interrelation of	I.	18, 19
Sociology	I.	18
Societies, incorporation of	VI.	82
Speedy trial	XIII.	154
State governments (United States)	XX.	228
States of the United States, powers of	XX.	221

	CHAP.	PAGE.
Statistics—		
Bureau of	XV.	175
Importance of	XV.	175
Status of aliens	XVI.	181
Statute labour	VI.	77
Statute law	IV.	43
Statutes	IV.	43
Interpretation of	VIII.	100
Revised	IV.	43
Subsidies, provincial	XVII.	191
Summary of revenue and expenditure of British Columbia	VII.	93
Summary proceedings	XIII.	153, 154
Summons	XIII.	153
Superintendent of Education	V.	56
Supreme Court of British Columbia	VIII.	98
Supreme Court of Canada	VIII.	122
Tariff—		
Canadian	XVII.	191
Ease of collection	XVII.	191
What should be taxed	XVII.	191
Tax, poll, municipal	VI.	77
Taxation—		
Direct and indirect	VII.	86, 87
Principles of justice in	VII.	89
Taxation of improvements	VI.	76
Taxes on gasoline and amusement tickets	VII.	87
Taxes on land	VI.	76
Tenure of office of Judges	VIII.	98
Terms of Union	III. and App.	31, 264
Territories	IX.	112
Town planning	VI.	72
Trade, distribution of	XV.	176
Trading companies	VI.	81
Treaties—		
Canadian	XVI.	184
Canadian, negotiation and ratification of	XVI.	183, 184
Imperial, power of Dominion to enforce	IX.	110
(United States)	XX.	225
Trespass	IV.	50

INDEX.

XVII.

	CHAP.	PAGE.
Trial	XIII.	157
Trustees, school	V.	56
Ultra vires	VIII.	102
Unfair contracts	V.	59
Uniformity of legislation	IV.	52
Union, Terms of	III. and App.	31, 264
United Kingdom	XVIII.	202
Parliament of	VIII.	102
Legal supremacy of Parliament	XVIII.	202
United States—		
Cabinet	XX.	223
Comparison of American and British institutions	XX.	221
Congress	XX.	221
Constitution	XX.	221
Constitution, amendment of	XX.	227
Elected judges in some states	XX.	229
Federal Government	XX.	222
Guaranteed rights	XX.	226
House of Representatives	XX.	223
Implied powers	XX.	228
Irresponsible executive	XX.	224
President	XX.	222
Senate	XX.	222, 225
State governments	XX.	228
States, powers of	XX.	221
Treaties	XX.	225
Unity of Empire	XVIII.	203
University of British Columbia	V.	56
Vancouver, charter of City of	VI.	78
Verdict	XIII.	157
Village municipality	VI.	67-78
Voters—		
Municipal	VI.	68
Provincial	III.	32
Voters' list, municipal	VI.	69
Wage, minimum	V.	60
War	XVI.	184, 185
War debt	XVII.	189
Warrant	XIII.	153
Widows' pensions	V.	62

	CHAP.	PAGE.
Wills	IV.	46, 47
Witnesses	VIII.	100
Women	IV.	47
Women in Quebec	IX.	106
Workmen's Compensation Act	V.	61
Workmen's Compensation Board	V.	61
Wrongs, civil	IV.	50
Zoning	VI.	72

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